

City of Miami Beach - City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
September 10, 2003

Mayor David Dermer
Vice-Mayor Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Luis R. Garcia, Jr.
Commissioner Saul Gross
Commissioner Jose Smith
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

Visit us on the Internet at www.miamibeachfl.gov for agendas and video "streaming" of City Commission Meetings.

ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

Called to order at 9:00 a.m.
Inspirational Message, Pledge of Allegiance
Requests for Additions, Withdrawals, and Deferrals

Presentations and Awards

PA Presentations and Awards

Consent Agenda

C2 Competitive Bid Reports
C4 Commission Committee Assignments
C6 Commission Committee Reports
C7 Resolutions

Regular Agenda

R2 Competitive Bid Reports
R5 Ordinances
R6 Commission Committee Reports
R7 Resolutions
R9 New Business and Commission Requests
R10 City Attorney Reports

Reports and Informational Items

PA - Presentations and Awards

- PA1 Proclamation Honoring The Life And Achievements Of The Late Ed Resnick. (Page 1)
(Requested By Mayor Dermer)
- PA2 Proclamation In Honor Of City Of Miami Beach Public Safety Departments
(Requested By Mayor Dermer)
- PA3 Certificate Of Appreciation To Joe London, Information Technology, For 21 Years Of Dedicated Service As A City Of Miami Beach Employee.
(Requested By Mayor Dermer)
- PA4 Proclamation Presented To Turner Construction Company For Its Enviably Record In Building And For The Involvement Of Its 302 Staff Members, Nationally And Locally, In Numerous Programs.
(Requested By Mayor Dermer)
- PA5 Certificates Of Appreciation To Be Presented To Bob Sassani, The Wave Hotel, Rafael Barrera, Clinton Hotel, Leanne Ballard, Park Central Hotel, Randy Griffin, Eden Rock Resort, And Chip Chapman, Essex House And Blue Moon Hotels.
(Requested By Commissioner Bower)
- PA6 Certificate Of Appreciation To Be Presented To David Whitaker For His Outstanding Work And Participation With The Arts In Residency Program.
(Requested By Commissioner Bower)
- PA7 Certificate Of Appreciation To Nancy Wolcott For Her Valuable And Distinguished Service On Behalf Of The Miami Beach Cultural Arts Council.
(Requested By Commissioner García)

CONSENT AGENDA

Action:
Moved:
Seconded:
Vote:

C2 - Competitive Bid Reports

- C2A Request For Approval To Award A Contract In The Amount Of \$193,398.00 Pursuant To State Of Florida Department Of Transportation Contract No. PO384, To Southern Sewer Equipment Sales For The Purchase Of One (1) 2004 Vac-Con Sewer Cleaner Mounted On A 2004 Sterling LT7501 Truck. (Page 4)
(Fleet Management)
- C2B Request For Approval To Award Contracts To BellSouth For Local Telephone Service And Long Distance Telephone Service, Pursuant To Bid No. 49-02/03, Providing Citywide Local And Long Distance Telephone Services In The Estimated Annual Amount Of \$685,000. (Page 7)
(Information Technology)
- C2C Request For Approval To Award A Contract To KONE, Inc., In The Annual Estimated Amount Of \$43,420, Pursuant To Invitation To Bid No. 55-02/03, For The Citywide Maintenance Of Elevators. (Page 12)
(Public Works)
- C2D Request For Approval To Award A Contract To Executive Elevator Service, Inc. In The Amount Of \$151,875, Pursuant To Invitation To Bid No. 30-02/03, For The Elevator Renovation At City Hall Annex Building, Located At 777 17th Street. (Page 15)
(Public Works)

C4 - Commission Committee Assignments

- C4A Referral To The Finance And Citywide Projects Committee A Discussion On The ADA And Public Interior Design Enhancement Renovations For The Jackie Gleason Theater Of The Performing Arts (TOPA). (Page 21)
(Capital Improvements)
- C4B A Referral To The Finance And Citywide Projects Committee Of A Presentation And Discussion Of The Basis Of Design Report For Phase II Of The South Pointe Neighborhood Right Of Way Improvement Project. (Page 29)
(Capital Improvements)
- C4C Referral To The Finance And Citywide Projects Committee For Review And Discussion, The Proposed Amendments To The Beachfront Concession Agreement By And Between The City And Boucher Brothers Miami Beach, LLC. (Page 31)
(Economic Development)
- C4D Referral To The Finance And Citywide Projects Committee For Review And Discussion, The Proposed Concession Agreements With Market Company, Inc. For The Lincoln Road Green Market, The Española Way Street Market, And Normandy Isle Street Market. (Page 33)
(Economic Development)

- C4E A Referral To The Finance And Citywide Projects Committee To A) Consider A Request By Miami-Dade County For The Miami Beach City Commission, As The Governing Body Of The Redevelopment Agency, To Exempt The Children's Trust, An Independent Taxing District, From Contributing Its Ad Valorem Tax Levy To The City's Redevelopment Trust Fund; And B) A Proposal By Miami-Dade County To Impose A One And One Half Percent (1½ %) Administrative Fee On The Redevelopment Agency's Proposed FY 2003/04 Budget. (Page 67)
(Finance Department)
- C4F A Referral To The Neighborhoods Committee To Discuss The Amendments To Chapter 90 Of The Miami Beach City Code Entitled Solid Waste. (Page 73)
(Neighborhood Services)
- C4G A Referral To The Planning Board To Discuss An Ordinance Amending The Permitted Uses For The MXE Mixed-Use Entertainment Zoning District, To Permit Public And Private Institutions As A Conditional Use, To Permit The Versace Mansion On Ocean Drive To Be Converted To A Private Museum. (Page 75)
(Requested By Commissioner Cruz)
- C4H A Referral To The Finance And Citywide Projects Committee A Discussion On The Status Of The Normandy Shores Golf Course. (Page 77)
(Requested By Commissioner Smith)

C6 - Commission Committee Reports

- C6A Report Of The Community Affairs Committee Meeting Of September 4, 2003: 1) Discussion Regarding Appropriate Memorial For The Late Maurice Gibb; 2) Discussion To Consider The Appropriate Forms Of Recognition For Persons/Companies Donating Funds To The North Beach Youth Center; 3) Discussion Regarding David Nevel's Request To Change The Memorial/Dedication To The Late Joseph Nevel From The Collins Park Fountain To The Collins Park Plaza; 4) Discussion Regarding Proposed Amendments To The Existing Debarment And Lobbying Ordinances; 5) Discussion Regarding Changes To The Miami-Dade County's Lobbying Ordinance; 6) Discussion Regarding The Renaming Of The Fire Administration Building And/Or Fire Station No. 2 In Memorial (To Honor) Dr. Leo Grossman And 7) Discussion Regarding Establishing A Pilot Program With Onboard Media For A Maximum Of Twelve (12) Months To Produce And Air A Thirty (30) Minute Segment Of "Welcome To Miami Beach" In Promotion Of The City Of Miami Beach As A Tourist Destination And Quality Residential Community, On "BEACHTV" (Charter Communications Geographic Territory), At No Cost To The City; Providing A Link On The City's Website, A Letter Of Support For The Programming Efforts And The City's Cooperation And Conceptual Support Of The Program And Its Production. (Page 80)

- C6B Report Of The General Obligation Bond And Oversight Committee Meeting Of August 4, 2003: 1) Presentation – General Obligation Bond Interest 2) Change Order Report; 3) Recommendation To City Commission: A) Biscayne Pointe BODR; 4) Project Status Report: A) Update On Fire Station No. 2; B) Update On Fire Station No. 4; C) Update On Normandy Isle Park And Pool; 5) Informational Items: A) Change In Meeting Dates B) Special Joint Meeting Of The Finance & Citywide Projects And G.O. Bond Oversight Committees C) Updated Calendar Of Scheduled Community Meetings; D) Development Agreement For Bay Road; E) Corradino Additional Services Agreement. (Page 86)
- C6C Report Of The Neighborhoods Committee Meeting Of July 28, 2003: 1) Discussion Regarding The Revised Guidelines For The City Of Miami Beach Multi-Family Housing Rehabilitation Program; 2) Relocation Of Water Meters From Rear Easement To Right-Of-Way; 3) Review And Discussion Regarding An Amendment To The City Code Concerning The Distribution Of Handbills; 4) Presentation By A Group Of Concerned Residents Advocating Better Green Space Management In The City; 5) Review Of The City's And MCDC's Policy Regarding Acquiring Buildings In Better Shape And Provide More Affordable Housing; 6) Presentation And Discussion Of The Neighborhood Conservation Overlay District Concept And 7) Discussion And Review Of The Community Development 2003-2007 Consolidated Plan. (Page 88)

C7 - Resolutions

- C7A A Resolution Authorizing The Issuance Of RFQ No. 68-02/03 For Engineering, Urban Design, And Landscape Architecture For Planning, Design, Bid And Award And Construction Administration Services For The City Center Right Of Way Improvement Project. (Page 97)
(Capital Improvements)
- C7B A Resolution Authorizing And Approving The Mayor And City Clerk To Execute Amendment No. 1 To The City's Agreement With The Firm Of Williams, Hatfield And Stoner, Inc., D/B/A Tetra Tech WHS, For The Design Of The Right Of Way Infrastructure Improvements Program Neighborhood 4 – Normandy Isle And Normandie Sud; By Increasing The Not To Exceed Fee By \$50,529 To Provide For Additional Services Required For Relocating Water Main Service Locations; And Appropriating Funds Therefore In The Amount Of \$50,529 From The Series 2000 Water And Sewer Revenue Bond Fund. (Page 110)
(Capital Improvements)
- C7C A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Home Investment Partnerships (HOME) Program Agreement With The Miami Beach Community Development Corporation (MBCDC), Providing \$86,200 Home Program Funds From Fiscal Year 2001/02, For The Continuation Of A Scattered-Site Home Buyer Assistance Program In Accordance With The Home Program Requirements And To Assist First-Time Home Buyers Including Participants In The Family Self Sufficiency Program Established By The Housing Authority Of The City Of Miami Beach (HACOMB). (Page 121)
(Neighborhoods Services)

- C7D A Resolution Authorizing The Mayor And City Clerk To Execute A Fourth Amendment To The Home Investment Partnerships (HOME) Program Agreement, Dated June 6, 2001, Between The City And Miami Beach Community Development Corporation (MBCDC), Providing \$364,331 In HOME Program Funds From The HOME Program Notice Of Funding Availability (NOFA) For Fiscal Year 2001/02, Towards The Cost Of The Rehabilitation Of A Building, Located At 532 Michigan Avenue, Miami Beach, To Provide Eighteen Rental Units For Income-Eligible Elderly Residents In Accordance With The HOME Program Requirements. (Page 144)
(Neighborhoods Services)
- C7E A Resolution Authorizing The Mayor And City Clerk To Execute A Home Investment Partnerships (HOME) Program Agreement Between The City And Carrfour Supportive Housing Providing \$309,469 In HOME Program Funds From A HOME Program Notice Of Funding Availability (NOFA) For Fiscal Year 2001/02, Towards The Cost Of The Rehabilitation Of A Building, Located At 530 Meridian Avenue, Miami Beach, To Provide Fifty-Five Rental Units For Income-Eligible Residents In Accordance With The HOME Program Requirements. (Page 155)
(Neighborhoods Services)
- C7F A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Proposals Received Pursuant To Request For Proposals (RFP) No. 35-02/03, For The Purchase Of A Parking Management Software; Authorizing The Administration To Enter Into Negotiations With The Firm Of T-2 Systems For The Purchase Of A Parking Management Software; And If Negotiations Are Successful, Authorize The Mayor And City Clerk To Execute An Agreement With T-2 Systems; Further Appropriating \$184,000 From Parking Revenue Bond Fund 481 And The Establishment Of A Work Order For The Project. (Page 186)
(Parking)
- C7G A Resolution Ratifying The Following City Manager's Actions: 1) Approval To Increase The Standing Order With Nextel Communications For Citywide Radio And Cellular Telephone Services, In The Amount Of \$65,000; And 2) Approval And Execution Of An Agreement With Florida Department Of Transportation To Receive Annual Funding Of \$150,000 For Landscape Maintenance Of The Julia Tuttle Causeway, Pursuant To Resolution No. 2003-25295, Which Authorized The City Manager, Or His Designee To Select, Negotiate, Award And Reject All Bids, Contracts, Agreements, Purchase Orders, Change Orders And Grant Applications; Renew Existing Contracts Which May Expire; Terminate Existing Contracts As Needed; From The Last Commission Meeting On July 30, 2003, Until The First Regularly Scheduled Commission Meeting In September 2003, Subject To Ratification By The City Commission At Its First Regularly Scheduled Meeting In September 2003. (Page 191)
(Procurement)
- C7H A Resolution Ratifying The Administration's Execution Of A Joint Participation Agreement (JPA) With The Florida Department Of Transportation (FDOT), In The Amount Of \$13,974, For The City To Perform Additional Traffic Analysis Of Existing Conditions And Year 2021 Projections At The Intersections Of Indian Creek Drive At 63rd Street (Both With And Without The Flyover); And Indian Creek Drive At 65th Street; And Further Authorizing The Appropriation Of Advance City Funds For The Study To Be Performed By HNTB, Inc., For Subsequent Reimbursement By The JPA Funds. (Page 196)
(Public Works)

- C7I A Resolution Approving And Authorizing The Appropriation Of Twenty Percent (Approximately \$360,000) Of The Miami Beach Share Of The Charter County Transit Surtax Proceeds, Levied By Miami-Dade County Between January And September 2003, To Replace No Longer Eligible Outside Funds Included In The Funding Packet For The Fiscal Year 2002-03 Electrowave Operating Budget, Adopted By Resolution No. 2002-25012, Dated September 26, 2002. (Page 225)
(Public Works)
- C7J A Resolution Waiving By 5/7th Vote, The Formal Competitive Bidding Requirements And Authorizing The Mayor And City Clerk To Execute An Agreement With Ashbritt, Inc. For Disaster Planning And Recovery Services, Finding Such Waiver To Be In The Best Interest Of The City. (Page 232)
(Public Works)
- C7K A Resolution Retroactively Approving The Actions Of The Administration With Respect To Finding And Declaring The Existence Of A Parking Emergency With Respect To Universal Television's "Karen Sisco" Production; And Further Declaring The Existence Of A Parking Emergency On The Following Specified Dates With Respect To The Increased Traffic And Parking Demand Caused As A Result Of This Production, Other Existing Events, Conventions, Visitors, And The First Week Of Public School From August 25, 2003 Through August 31, 2003; Allowing For The Provision Of The Vacant Lot Located At 17 Street And West Avenue Owned By The Housing Authority To Be Utilized To Satisfy Said Increased Demand; Provided That The City Shall Further Require Universal Television To Secure The Appropriate Security And Insurance For The Purposes Set Forth In This Resolution. (Page 255)
(Tourism & Cultural Development)

End of Consent Agenda

PA - Presentations and Awards

- PA1 Proclamation Honoring The Life And Achievements Of The Late Ed Resnick.
(Page)
(Requested By Mayor Dermer)
- PA2 Proclamation In Honor Of City Of Miami Beach Public Safety Departments
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Of Dedicated Service As A City Of Miami Beach Employee. (Page)
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Record In Building And For The Involvement Of Its 302 Staff Members,
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Rafael Barrera, Clinton Hotel, Leanne Ballard, Park Central Hotel, Randy Griffin,
Eden Rock Resort, And Chip Chapman, Essex House And Blue Moon Hotels.
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(Page)
(Requested By Commissioner García)

Agenda Item PA1 - PA7
Date 9-10-03

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY



Condensed Title:

Request for approval to award a contract, in the amount of \$193,398.00, pursuant to State of Florida Department of Transportation Contract No. PO384, to Southern Sewer Equipment Sales for the purchase of one (1) 2004 Vac-Con Sewer Cleaner mounted on a 2004 Sterling LT7501 Truck.

Issue:

Whether to approve the award pursuant to the State of Florida Department of Transportation Contract No. PO384.

Item Summary/Recommendation:


The 2004 Vac-Con Truck-Mounted Sewer Cleaner is a budgeted **replacement** for the Public Works-Storm Water Division and will be funded by the Public Works Storm Water Enterprise Fund. This vehicle is equipped with a Positive Displacement Blower, Dual Engine, Hydrostatic Drive, 80GPM@3000 PSI Water Pump with a 165 HP Auxiliary Engine and a 2004 Sterling LT7501 Truck with diesel engine and automatic transmission. This truck-mounted sewer cleaner will be used for routine cleaning of the City's storm sewer systems in accordance with NPDES standards.

The Administration recommends the award pursuant to State of Florida Department of Transportation Contract No. PO384.

Advisory Board Recommendation:

N/A


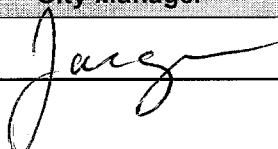
Financial Information:

Source of Funds:	Amount		Account	Approved
 Finance Dept.	1	\$193,398.00	427.0427.000673 Public Works Storm Water Enterprise Fund	
	2			
	3			
	4			
	Total	\$193,398.00		

City Clerk's Office Legislative Tracking:

Andrew Terpak

Sign-Offs:

Department Director	Assistant City Manager	City Manager
Fred Beckmann, Public Works Andrew Terpak, Fleet Mgt.		

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AGENDA ITEM

C24

DATE

9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **REQUEST FOR APPROVAL TO AWARD A CONTRACT, IN THE AMOUNT OF \$193,398.00, PURSUANT TO STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION CONTRACT NO. PO384, TO SOUTHERN SEWER EQUIPMENT SALES FOR THE PURCHASE OF ONE (1) 2004 VAC-CON SEWER CLEANER MOUNTED ON A 2004 STERLING LT7501 TRUCK.**

ADMINISTRATION RECOMMENDATION

Approve the award.

BID AMOUNT AND FUNDING

\$193,398.00 Public Works Storm Water Enterprise Fund 427.0427.000673

ANALYSIS

The 2004 Vac-Con Sewer Cleaner mounted on a 2004 Sterling LT7501 Truck chassis is a budgeted replacement for the Storm Water Division. This vehicle is funded by the Public Works Storm Water Enterprise Fund.

The 2004 Vac-Con Sewer Cleaner is equipped with a Positive Displacement Vacuum Blower, Dual Engine, Hydrostatic Drive, 80GPM@3000 PSI Water Pump with a 165HP Auxiliary Engine. This equipment will be mounted on a 2004 Sterling LT7501 Truck with diesel engine and automatic six speed transmission.

This truck-mounted sewer cleaner will be used for the routine daily cleaning of the City's storm sewer systems, both basins and pipes, in accordance with the National Pollutant Discharge Elimination System (NPDES) standards.

The Administration compared three functionally similar truck-mounted positive displacement sewer cleaners from three major manufacturers: Aquatech, Vactor and Vac-Con. The Aquatech equipment specifications could not be considered in the same class of equipment as the Vactor and the Vac-Con. Of the remaining two machines, the Vac-Con was notably superior as having the most value-added features for the money. The machine has a larger blower motor, higher operating PSI, recommended options were included in the base price, no charge for a 5-year extended warranty on the blower, and finally, offered a higher trade-in value for our old equipment.

Make/Model	Aquatech/B10	Vactor/2112-16	Vac-Con/PD4212
Base Price	\$223,996.00	\$205,065.83	\$225,046.00
Options	Included	\$24,945.00	Included
Extended Warranties (5-yr. chassis & unit)	\$6,750.00	\$19,920.00	\$8,352.00
Trade-in Allowance	-\$22,400.00	-\$15,000.00	-\$40,000.00
Total	\$208,346.00	\$239,930.83	\$193,398.00

The Administration recommends the purchase of the Vac-Con unit.

The vehicle listed below has met or exceeded the established criteria for replacement:

Veh#	Dept.	Year	Make	Mileage	Life to Date Maintenance	Condition
0667-4	0427	1994	Vac-Con/Ford Chassis	62,610	\$78,747.15	Poor

The criteria are based on age, mileage, maintenance, engine hours (one engine hour idling = 35 miles), and overall condition of the vehicle. The life to date maintenance includes all costs associated with the vehicle, including, but not limited to, repairs, routine maintenance, accidents and other damage.

This vehicle is being used as a trade-in toward the new unit.

CONCLUSION

The Administration recommends that the City Commission award a contract to Southern Sewer Equipment Sales, in the amount of \$193,398.00, pursuant to the State of Florida Department of Transportation Contract No. PO384, for the purchase of one (1) 2004 Vac-Con Sewer Cleaner mounted on a 2004 Sterling LT7501 Truck.



 JMG/MDB/FB/GL/AET/mo
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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Award a Contract to BellSouth for Local and Long Distance Telephone Services, Pursuant to Bid NO. 49-02/03, Providing Citywide Local and Long Distance Telephone Services in the Estimated Annual Amount of \$685,000.

Issue:

Shall the City Commission award a contact to BellSouth?

Item Summary/Recommendation:

The purpose of the Bid is to reduce the City's current annual expenditure for both local and long distance telephone service. After analyzing both BellSouth's and AT & T's bids, the Administration is recommending the award of a contract to BellSouth for both local and long distance telephone service. **Said award represents an annual cost savings to the City of \$119,000, which was calculated as follows:**

Long distance. BellSouth proposed to provide long distance service at an annual cost of \$41, 503, which represents a \$23,497 annual cost savings when compared to the current AT & T contract. The City currently pays \$65,000 for long distance service with AT & T. AT & T proposed a two-year contract at the same cost structure as we have today. Please refer to Attachment 1 for the long distance detail cost comparison.

Local service. BellSouth's Business Master Agreement (BBMA) and Customer Service Agreement (CSA) provide a cost savings of 13% or \$96,600 annually on local service. Additionally, the City will maximize the benefits of the BBMA contract by receiving an additional 13% discount on the long distance rates. The discount was applied to the Bellsouth long distance costs listed above.

Advisory Board Recommendation:

Financial Information:

Source of Funds:	Amount	Account	Approved
1	\$685,000	550.1750.000316	
2			
3			
4			
Total			

Finance Dept.

City Clerk's Office Legislative Tracking:

Gus Lopez, ext. 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
MKR GL	PDW	

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AGENDA ITEM C2B

DATE 9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **REQUEST FOR APPROVAL TO AWARD A CONTRACT TO BELLSOUTH FOR LOCAL AND LONG DISTANCE TELEPHONE SERVICES, PURSUANT TO BID NO. 49-02/03, PROVIDING CITYWIDE LOCAL AND LONG DISTANCE TELEPHONE SERVICES IN THE ESTIMATED ANNUAL AMOUNT OF \$685,000.**

ADMINISTRATION RECOMMENDATION

Approve the Award.

AMOUNT AND FUNDING:

\$685,000 Account No. 550.1750.000316 (FY03/04)

ANALYSIS:

Invitation to Bid No. 49-02/03 (the "Bid") was issued on July 9, 2003, with an opening date of August 6, 2003. BidNet issued bid notices to seven (7) prospective bidders. Additionally, the Procurement Division sent the bid announcement to supplemental bidders either provided by the Information Technology Department or researched from the Internet, including authorized sales representatives of the major service providers referred to as "Brokers".

The notices resulted in the receipt of two (2) bids: 1) BellSouth; and 2) AT & T. Brokers were contacted as to why they elected not to bid, and they in turn, provided the following reasons: 1) we are unable to provide all the services listed in the bid (i.e. local service); 2) we do not have the "footprint" within the Miami area; 3) recent corporate changes resulted in not enough time to submit a bid; and 4) we specialize in smaller accounts (i.e. small businesses).

The purpose of the Bid is to reduce the City's current annual expenditure for both local and long distance telephone service. The IT department has the expertise required to evaluate the bids and provide a recommendation to the City's Administration. Currently, Gladys Acosta, IT Telecommunications Manager, has the professional training which was acquired during her first seventeen years in the private sector workforce. Specifically, in the Telecommunications Consulting industry where she developed advanced application solutions to enable a seamless integration of complex telecommunication technology.

After analyzing both BellSouth's and AT & T's bids, the Administration is recommending the award of a contract to BellSouth for both local and long distance telephone service. **Said award represents an annual cost savings to the City of \$119,000, which was calculated as follows:**

Long distance. BellSouth proposed to provide long distance service at an annual cost of \$41, 503, which represents a \$23,497 annual cost savings when compared to the current AT & T contract. The City currently pays \$65,000 for long distance service with AT & T. AT & T proposed a two-year contract at the same cost structure as we have today. Please refer to Attachment 1 for the long distance detail cost comparison.

Local service. BellSouth's Business Master Agreement (BBMA) and Customer Service Agreement (CSA) provide a cost savings of 13% or \$96,600 annually on local service. Additionally, the City will maximize the benefits of the BBMA contract by receiving an additional 13% discount on the long distance rates. The discount was applied to the BellSouth long distance costs listed above.

The term of BellSouth's agreement will be for four years from the time of award by the Mayor and City Commission and may be renewed by mutual agreement, for four (4) additional years.

CONCLUSION

Based on the analysis of the bids received, it is recommended that the contract be awarded to BellSouth as the lowest and best bidder, pursuant to Bid No. 49-02/03, to provide local and long distance telephone services to the City of Miami Beach, in the annual estimated amount of \$685,000.

PDW:MKR:GA:GL

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LD Comparison

Service	BellSouth	BellSouth	BellSouth	ATT
Contract Term	2 yrs	3 yrs	4 yrs	2 yrs
Dedicated T1 Circuit	\$274	\$274	\$274	\$227
T1 Yearly Cost	\$3,288	\$3,288	\$3,288	\$2,724
Intrastate	0.045	0.0431	0.0431	0.0567
Interstate	0.0297	0.0292	0.0292	0.029025
International	0.1973	0.1952	0.1952	0.5
800 Service Intrastate	0.0431	0.0431	0.0431	0.0383
800 Service Interstate	0.0293	0.0293	0.0293	0.041
800 Canada	0	0	0	0.69255
City's estimated Yearly Usage				
Intrastate 43,827+98513+125714	\$12,062	\$11,553	\$11,553	\$15,199
Interstate 107,970	\$3,207	\$3,153	\$3,153	\$3,134
Total	\$15,269	\$14,706	\$14,706	\$18,332
International 11,646	\$2,298	\$2,273	\$2,273	\$5,823
800 Service Intrastate 91	\$4	\$4	\$4	\$3
800 Service Interstate 698	\$20	\$20	\$20	\$29
800 Canada 175	\$35	\$34	\$34	\$121
Total	\$59	\$59	\$59	\$153
Dedicated Total	\$17,626	\$17,038	\$17,038	\$24,309
Switched				
Intrastate	0.0695	0.0666	0.0666	0.09315
Interstate	0.0483	0.0454	0.0454	0.056025
International	0.2287	0.2263	0.2263	0.55
800 Service Intrastate	0.0431	0.0431	0.0431	0.0666
800 Service Interstate	0.0293	0.0293	0.0293	0.07
City's estimated Yearly Usage				
Intrastate 19,235+9867+88194	\$8,152	\$7,812	\$7,812	\$10,926
Interstate 47,119	\$2,276	\$2,139	\$2,139	\$2,640
Switch Total	\$10,428	\$9,951	\$9,951	\$13,566
International 1,985	\$454	\$449	\$449	\$1,092
Costs	\$49,363	\$47,705	\$47,705	\$65,846
Additonal 13% discount	\$6,417.14	\$6,201.67	\$6,201.67	
Total Costs	\$42,945	\$41,503	\$41,503	\$65,846

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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Request for Approval to Award a Contract to KONE, Inc. in the Annual Estimated Amount of \$43,420, Pursuant to Invitation to Bid No. 55-02/03, for the Citywide Maintenance of Elevators.

Issue:

Shall the City Commission Approve the Award to KONE, Inc?

Item Summary/Recommendation:

The purpose of this bid is to establish a contract, by means of sealed bids, for Citywide Maintenance of Elevator services, from a source(s) of supply that will give prompt and efficient service.


The contract shall remain in effect from time of award until September 30, 2005. This contract could be extended for an additional three (3) years, on a year-to-year basis, if mutually agreed by upon both parties.

APPROVE THE AWARD.

Advisory Board Recommendation:

N/A

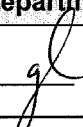

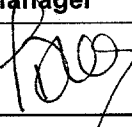
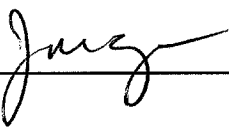
Financial Information:

Source of Funds:		Amount	Account	Approved
 Finance Dept.	1	\$15,120	520.1720.000325 Property Management	
	2	\$2,500	520.1720.000342 Property Management	
	3	\$12,300	480.0463.000325 Parking Department	
	4	\$13,500	480.0463.000342 Parking Department	
	Total	\$43,420		

City Clerk's Office Legislative Tracking:

FRED BECKMANN

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL  FB 	RCM 	

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **REQUEST FOR APPROVAL TO AWARD A CONTRACT TO KONE, INC.,
IN THE ANNUAL ESTIMATED AMOUNT OF \$43,420, PURSUANT TO
INVITATION TO BID NO. 55-02/03, FOR THE CITYWIDE MAINTENANCE OF
ELEVATORS**

ADMINISTRATION RECOMMENDATION:

Approve the Award.

BID AMOUNT AND FUNDING:

\$43,420 Funds are available from Property Management Accounts 520.1720.000325 and 250.1720.000342, and Parking Department Accounts 480.0463.000325 and 480.0463.000342, allocated for Fiscal Year 03/04 for elevator maintenance and repairs.

ANALYSIS:

Invitation to Bid No. 55-02/03 (the "Bid") was issued on July 18, 2003, with an opening date of August 20, 2003. BidNet issued bid notices to 5 prospective bidders. Additionally, the Procurement Division sent the bid announcement to the "BB-Bid", the online bidding and procurement system powered by the Blue Book database, thus inviting another 31 prospective bidders. The notices resulted in the receipt of four (4) bids.

The purpose of the Bid is to establish a contract, by means of sealed bids, for citywide maintenance of elevator and elevator repair services, from a source of supply that will give prompt and efficient service.

Atlantic Elevator Sales and Service, Inc., the current contractor, provided a bid but was not deemed to be the lowest and best.

The lowest and best bid was received from KONE, Inc. This contractor has been in business for 111 years as a specialty mechanical contractor (Elevator). The Procurement Division obtained favorable references from the following agencies:

- Jackson Memorial Hospital;
- Olympus Association;
- Miami-Dade Aviation Department; and
- The Miami Herald.

The contract with KONE, Inc. shall remain in effect from time of award until **September 30, 2005**. The contract may be extended for an additional three (3) years, on a year-to-year basis, if mutually agreed by upon both parties. At time of renewal each year, the City will negotiate an adjustment based on Consumer Price Index (CPI) increase.

RECOMMENDATION

Based on the analysis of the bids received, it is recommended that the City award the contract to the lowest and best bidder, **KONE, INC.**

BID TABULATION:

GROUP I. MAINTENANCE AGREEMENT					
Item	Description	Kone Elevator	Atlantic Elevator	Executive Elevator	ThyssenKrupp
1	CITY HALL (2 Elevators)	\$ 270/month	\$ 334/month	\$ 549/month	\$ 387/month
2	POLICE STATION (3 Elevators)	240	420	509	465
3	HISTORIC CITY HALL (2 Elevators)	490	590	886	620
4	17TH ST PARKING (5 Elevators)	425	700	890	625
5	42ND ST PARKING (2 Elevator s)	430	590	624	464
6	13TH ST PARKING (2 Elevators)	170	280	364	250
7	S. SHORE COMMUNITY CTR (1 Elevator)	90	127	161	94
8	SCOTT RAKOW YOUTH CTR (1 Elevator)	85	127	141	94
9	BASS MUSEUM (1 Elevator)	85	127	141	94
TOTAL MONTHLY COST (19 Elevators)		\$ 2,285	\$ 3,295	\$ 4,265	\$ 3,093
TOTAL ANNUAL COST (19 Elevators)		\$ 27,420	\$ 39,540	\$ 51,180	\$ 37,116
GROUP II. REPAIRS NOT COVERED UNDER MAINTENANCE AGREEMENT (Estimated \$16,000/Year)					
1	Hourly Labor Rate I	\$ 102.00/hour	\$ 125.00/hour	\$ 130.00/hour	\$ 139.92/hour
2	Hourly Labor Rate II	\$ 175.00/hour	\$ 212.50/hour	\$ 260.00/hour	\$ 209.88/hour
3	Parts and Supplies to be supplied at vendors	Cost	Cost	Cost	Cost

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Request for Approval to Award a Contract to Executive Elevator Service, Inc. in the Amount of \$151,875, Pursuant to Invitation to Bid No. 30-02/03, for the Elevator Renovation at City Hall Annex Building, located at 777 17th Street.

Issue:

Shall the City Commission Approve the Award to Executive Elevator Service, Inc?

Item Summary/Recommendation:

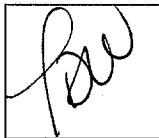
The work specified in this bid consists of furnishing all labor, machinery, tools, means of transportation, supplies, equipment, materials, services necessary for the renovation of two (2) electric passenger elevators at the City Hall Annex Building, located at 777 17th Street. Additionally, the Bid was issued with two add alternates, to be selected at the sole discretion of the City.

APPROVE THE AWARD.

Advisory Board Recommendation:

N/A

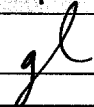
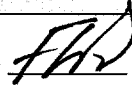
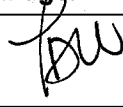
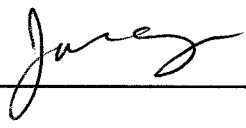
Financial Information:

Source of Funds:		Amount	Account	Approved
 Finance Dept.	1	\$128,343.19	369.2284.069358 Gulf Breeze Bond Fund	
	2	\$23,531.81	011.9313.000342 – 777 Building Repairs Account	
	3			
	4			
	Total	\$151,875.00		

City Clerk's Office Legislative Tracking:

FRED BECKMANN

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL  FB 	RCM _____ 	

AGENDA ITEM C2D

DATE 9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **REQUEST FOR APPROVAL TO AWARD A CONTRACT TO EXECUTIVE ELEVATOR SERVICE, INC. IN THE AMOUNT OF \$151,875, PURSUANT TO INVITATION TO BID NO. 30-02/03, FOR THE ELEVATOR RENOVATION AT CITY HALL ANNEX BUILDING, LOCATED AT 777 17TH STREET.**

ADMINISTRATION RECOMMENDATION:

Approve the Award.

BID AMOUNT AND FUNDING:

\$151,875 Funds are available from Acct. 369.2284.069358 (Gulf Breeze bond Fund) and Acct. 011.9313.000342 (777 Building Repairs Account)

ANALYSIS:

Invitation to Bid No. 30-02/03 (the "Bid") was issued on June 4, 2003, with an opening date of July 25, 2003. BidNet issued bid notices to 4 prospective bidders. Additionally, the Procurement Division sent the bid announcement to the list of supplemental bidders provided by the Property Management Division and the elevator companies listed in the Blue Book, thus inviting another 13 prospective bidders. The notices resulted in the receipt of three (3) bids.

The work specified in the Bid consists of furnishing all labor, machinery, tools, means of transportation, supplies, equipment, materials, and services necessary for the renovation of two (2) electric passenger elevators at the City Hall Annex Building, located at 777 17th Street. See attachment for an explanation of why the elevator renovation project for the 777 Building is required.

Additionally, the Bid was issued with two add alternates, to be selected at the sole discretion of the City. Add Alternate 1 was for the supply and installation of a new elevator machine. Add Alternate 2 was for the supply and installation of a complete new opening on the fifth floor allowing the West Elevator access to that level. The Property Management Division of Public Works recommended Add Alternate 2 based on the funding available.

The lowest and best bid was received from Executive Elevator Service, Inc. This contractor has been in business for 25 years as a specialty mechanical contractor (Elevator). The Procurement Division obtained favorable references from the following agencies:

- 633 Partners LTD;
- Club Atlantis Condominium;
- Legal Services of Greater Miami; and
- Winston Tower 300 Condominium

Contractor will procure Performance and Payment Bonds, each in the amount of 100% of the contract price. Contractor will be substantially completed within one hundred-twenty (120) calendar days from the issuance date of the Notice to Proceed, with final completion thirty (30) days later.

RECOMMENDATION

Based on the analysis of the bids received, it is recommended that the City award the Base Bid and Alternate 2 to the lowest and best bidder, **EXECUTIVE ELEVATOR SERVICE, INC.**

BID TABULATION:

VENDOR	Base Bid	Add Alt. 1	Add Alt. 2	Base Bid + Add Alt. 2
Executive Elevator Service, Inc.	\$148,775	\$16,000	\$3,100	\$151,875
Atlantic Elevator Sales and Service, Inc.	\$151,320	\$30,396	\$3,400	\$154,720
ThyssenKrupp Elevator Corporation	\$170,300	\$18,950	\$4,350	\$174,650

The following is an explanation of why the elevator renovation project for the 777 Building is required:

1. The elevators are more than 40 years old and, as best that can be told, have never been upgraded. Many of the elevators operating components are worn out from over 40 years of service.
2. Many of the parts that are required for routine maintenance and repair are no longer available due to the antiquity of the equipment or no longer carried as a stock item by the parts vendors. When replacements are required, the elevator must remain out of service until replacement parts can be obtained. The extended out of service time required to obtain the not readily available parts causes a negative impact on the building tenants business operations.
3. The elevators are not A.D.A. compliant. As part of the renovation project, both elevators will be brought into full compliance with current A.D.A. codes.
4. The elevator control system will be replaced with a state of the art electronic controller that will require little or no future maintenance, the elevators will run smoother, and potential legal and insurance liabilities will be decreased.
5. The monthly service contract fee will be omitted for the one year period the elevator is under warranty. Bids were submitted by the elevator companies with this cost included in the project cost.
6. As part of the renovation project, the west elevator will be modified so that it will service the 5th floor of the building. Currently the 5th floor is only serviced by the east elevator. When the east elevator is out of service, there is no A.D.A. accessible ingress or egress from that floor. The 5th floor tenant of the building has claimed the out of service elevator has negatively impacted his business and has sought rent relief from the City for the lack of elevator service to his floor.
7. The operation of the current elevators has become unstable and they are frequently not operating within the design parameters of the elevator. Some of the results of this are non-leveling of the elevators at various floors, excessive vibration during operations, excessive door opening times due to old tracks and door operating equipment.
8. If the elevator renovation project is not funded, the elevator inspection section of the City's Building Department will require certain upgrades to occur whether the elevators are upgraded or not. The expense for these upgrades will still have to be spent if the elevators are to remain in service.
9. Most of the elevators owned by the city are approaching the ends of their normal service lives and modifications and upgrades are required as part of elevator and building department requirements. These upgrades require large capitalization of funds and therefore should be spread out over a ten year period so that the costs of elevator renovations annually are not cost prohibitive to the City's budget.
10. There are several medical clinics, including a kidney dialysis clinic, located on the upper floors of the 777 Building where patients are brought in by stretcher. There have been numerous occasions recently where the Fire Department has had to have been dispatched to carry these patients down the stairs of the building due to both elevators being out of service for repairs. This places an undue liability upon the City should a life safety issue occur while a patient is waiting for Fire-Rescue to get to the dialysis clinic.
11. Due to the unreliability of the two elevators and the reasons noted above, it is imperative the elevator renovations be funded.

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

A handwritten signature of Jorge M. Gonzalez in black ink.

Subject: **REFER TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE A DISCUSSION ON THE ADA AND PUBLIC INTERIOR DESIGN ENHANCEMENT RENOVATIONS FOR THE JACKIE GLEASON THEATER OF THE PERFORMING ARTS (TOPA).**

ANALYSIS

On March 3, 2003, invitation to Bid No. 27-02/03 was issued for the Jackie Gleason Theater of the Performing Arts (TOPA) ADA and interior renovations, resulting in the receipt of 10 bids. The results of the bid opening, held on April 16, 2003, were as follows:

COMPANY	BASE	ALT. 1-3	GRAND TOTAL BID
Romano Brothers Construction, Inc.	\$1,512,463.80	\$71,513.73	\$1,583,977.50
Regosa Engineering, Inc.	\$1,690,000.00	\$12,600.00	\$1,702,600.00
IGWT Construction, Inc.	\$1,732,892.00	\$54,113.73	\$1,787,005.73
Tran Construction, Inc.	\$1,997,000.00	\$18,700.00	\$2,015,700.00
Cazo Construction, Inc.	\$2,254,700.00	\$31,000.00	\$2,285,700.00
Miami Skyline Construction Corp.	\$2,397,251.00	\$66,100.00	\$2,463,351.00
Landel Construction Corporation	\$2,707,710.00	\$132,650.00	\$2,840,360.00
SunCoast Contracting	\$2,867,984.00	\$85,381.00	\$2,953,365.00
Lear Associates, Inc.	\$2,985,947.00	\$54,200.00	\$3,040,147.00
StoreTech	\$3,749,375.00	\$67,312.00	\$3,816,687.00

On April 30, 2003, the Mayor and City Commission awarded a contract to Romano Brothers Construction Inc. (Romano Brothers) as the lowest responsive bidder. On May 7, 2003, Romano Brothers informed the City of its decision not to honor their bid due to an error in their bid pricing. Subsequently, staff analyzed the option of rescinding the contract award to Romano Brothers and awarding a contract to the next lowest responsive bidder.

Agenda Item C4A
Date 9-10-03

2003, Romano Brothers informed the City of its decision not to honor their bid due to an error in their bid pricing. Subsequently, staff analyzed the option of rescinding the contract award to Romano Brothers and awarding a contract to the next lowest responsive bidder. However, staff determined that an award pursuant to this bid, after the April 30, 2003 Commission meeting, would jeopardize the timely Substantial Completion of the Phase I ADA restrooms renovation.

On May 19, 2003, a bid protest was submitted by the apparent second lowest responsive bidder, Regosa Engineering, Inc. (Regosa).

At the City Commission meeting of June 11, 2003, staff recommended that the City Commission rescind the contract award to Romano Brothers and reject all bids. The project could then be re-bid in February 2004 for construction of Phase I during TOPA's next break in scheduled events, between June 1, 2004 and September 30, 2004. The Romano Brothers's award was rescinded but the City Commission directed staff to negotiate a contract with the apparent second lowest responsive bidder, Regosa, subject to discussions and Regosa's willingness to honor their bid price until mid 2004.

As part of the bid evaluation process, City staff performed a review of Regosa's references for compliance with contract provisions, which required the contractor to have completed projects of a certain size and scope and to have had experience in the type of renovation involved. This evaluation was not undertaken prior to the June 11, 2003 City Commission meeting since a rejection of all bids was recommended and the Administration had no advance indication that the Commission would consider a bid award.

Upon review of the submitted references by the City's Consultant, SKLARchitecture, and the City's Program Manager, URS Corporation, Regosa's qualifications to perform is questioned. Exhibit "A" attached herein contains the results of the consultant and program manager reviews.

Additionally, the City has received a letter from the fourth lowest bidder, Tran Construction Inc., advising of a potential legal challenge should the City move forward to an award to Regosa. Refer to Exhibit B.

CONCLUSION

The Administration recommends the City Commission refer a discussion on Regosa Engineering's qualifications to perform work for the Jackie Gleason Theater of the Performing Arts (TOPA) ADA and interior renovations pursuant to Bid No. 27-02/03 to the Finance and Citywide Projects Committee.


JMG/RCM/TH/mb
Attachments

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EXHIBIT "A"

July 14, 2003

Mr. John Ellis
Assistant Procurement Director
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida, 33139

Re: Regosa Engineering's References

Dear Mr. Ellis:

Per Nury's request I am submitting URS's findings regarding Regosa's reference checks. Pursuant to the contract requirements delineated in Section 05000, regarding the utilization of certain finishes, I find that Regosa has not submitted project references which utilize the finishes specified.

- Reference Number 1. : The 13 th Street Parking Renovation does not utilize the finishes required in Section 05000.
- Reference Number 2. : I called Mr. Bob Christoph and confirmed that Regosa did not utilize the finishes required in Section 05000.
- Reference Number 3. : Although I was unable to reach Mr. Trujillo, the Modelo Community Center is a Miami Dade HUD project. I feel confident that this project does not utilize the finishes required per Section 05000. This is a low income housing project which most likely does not utilize the high end finishes required at the TOPA. I will try to reach Mr. Trujillo on Monday to verify.
- Reference Number 4. I talked to Mr. Les Bellinson. Although Regosa utilized curtains/draperies, precast concrete columns and casework, he did not utilize terrazzo flooring or special paint finishes as required by Section 05000.
- Reference Number 5. I talked to Mr. Juan Poleo of URS Corp. Regosa utilized casework in a concession stand and precast concrete columns in the Flamingo Pool Park, however, this project did not require high end casework and precast concrete columns as required in Section 05000. In addition, Regosa

did not utilize terrazzo tile, curtains and draperies nor decorative or special paint finishes as required in Section 05000.

Please find attached for your review Mr. Ari Sklar's recommendation regarding the verification of Regosa Engineering's references. I concur with Mr. Sklar's findings and recommendations and agree that Regosa Engineering needs to submit additional references which meet the minimum requirements for the project pursuant to Section 05000 of the Contract.

Please feel free to contact me if you have any questions or need my assistance. My office number is: 305-884-8900 ext. 237 or cell number: 786-586-6874.

Sincerely,
URS Corporation



Graciela Escalante R.A.
URS Project Manager

Cc: Mr. Jorge Chartrand, CIP
Ms. Nury Menicucci, CIP
Mr. Mauro Burgio, CIP
Mr. Todd Osborn, URS
Mr. Ari Sklar, Sklarchitects

URS Corporation
Eastern Financial Building, Suite 1000
700 South Royal Poinciana Boulevard
Miami Springs, FL 33166
Tel: 305-884-8900
Fax: 305-884-2665

SKLARchitecture



July 11, 2003

Mrs. Grace Escalante
Project Manager
URS Corporation
700 So. Royal Poinciana Blvd.
Suite # 1000
Miami Springs, Fl. 33166.

Ref: Jackie Gleason Theater of the Performing Arts – ADA & Interior Renovations
Bid Award Recommendation.

Architecture

Dear Grace:

Interior
Architecture
& Design

In an effort to verify the quality of Regosa Engineering as a contractor, SKLARchitecture has contacted a number of references submitted by Regosa Engineering. These references were:

1. Bob Cristoph of Miami Beach Marina.
2. Francisco Trujillo of Miami Dade HUD.
3. Les Beilinson of Les Beilinson Architects.
4. Kobi Karp of Kobi Karp Architects.
5. Juan Poleo of URS Corporation

Urban
Renovation

Architectural
Design of
Children's
Environments

Although most of the references indicated that Regosa Engineering performed satisfactorily on their projects, they do not have a minimum of 4 projects meeting the Bid requirements in terms of type of similar work and the type of finishes required. Please ask them to provide you with additional references meeting the minimum requirements for this project, as well as photographs of their completed work.

At this time, as a result of our review of the references, we are unsure if Regosa Engineering is qualified to do the Jackie Gleason TOPA- Interiors & ADA project. In fact, we have serious concerns that they may not be able to achieve the quality of work that this project requires. We can make a better determination with additional project examples, references & photos.

141 N.E. 3rd Ave.
7th Floor
Miami
Florida 33132

Should you have any questions please contact me at your earliest convenience.

Ph 305.379.0007

Fax 305.379.0037

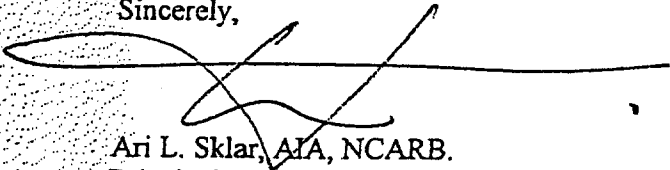
e-mail:

mail@sklararchitect.com

WEBSITE:

www.sklararchitect.com

Sincerely,


Ari L. Sklar, AIA, NCARB.
Principal

ALS/jt.

CC: Nury Menicucci, CMB / CIP
Steve Clark, SMG
Roman Martinez, CMB Procurement

AA 0002849

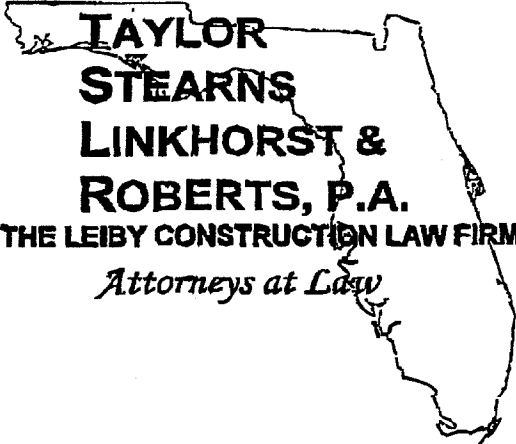
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NCARB CERTIFIED

Ari Sklar, A.I.A.
President

EXHIBIT "B"

**LEIBY
TAYLOR
STEARNS
LINKHORST &
ROBERTS, P.A.**
THE LEIBY CONSTRUCTION LAW FIRM
Attorneys at Law



LARRY R. LEIBY*
lrl@leibylaw.com
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LEONARDO N. ORTIZ
lno@leibylaw.com
JAMES S. HELF
jah@leibylaw.com

* Also Certified Circuit Court Civil Mediator
+ Also Florida Certified Building Contractor

June 24, 2003

VIA FACSIMILE: 305-673-7096

Mayor David Dermer and
Members of the City Commission
City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: ADA & Public Interior Design Enhancement Renovations
for Miami Beach Jackie Gleason Theater of the Performing Arts
Bid No. 27-02/03

Ladies and Gentlemen:

Please be advised that undersigned counsel represents Tran Construction, Inc. They have brought to my attention certain issues which I find imperative to bring to the attention of the Mayor and City Commissioners.

As you are probably aware, the City issued an invitation to Bid No. 27-02/03 in the Spring of 2003. Ten bidders responded to the bid which was opened on April 16, 2003. It was determined that Romano Brothers Construction, Inc. was the lowest and best bidder and so on April 30, 2003, the Mayor and City Commission awarded the contract to Romano Brothers. On May 5, 2003, Romano Brothers informed the City that there were issues with their bid and the City rescinded the contract and bid award.

Regosa Engineering as the second bidder filed a bid protest the contents of which I am presently unaware, however, upon information and belief, the City is considering awarding the contract to Regosa for this project.

Tran Construction requests the City take the recommendation of the City Manager as outlined in the Commission memorandum dated June 11, 2003. In that memorandum, Mr. Gonzalez states that if the staff's analysis and opinion the City should reject all bids and re-bid the project at a later date.

1390 North University Drive, Ft. Lauderdale, Florida 33322
Broward (954) 382-9199 Fax (954) 382-9063
<http://www.leibylaw.com>

6/24/2003

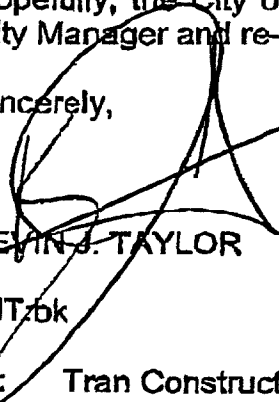
Mayor David Durner and
Members of the City Commission
Page 2

Not only is this the City Manager's recommendation, it also seems prudent and a good business decision when considering the nature of construction and specifically this project. As is outlined in the June 11, 2003 Commission memorandum, because of the late issuance of this contract, the work cannot be performed until the Summer of 2004. Awarding the contract now, at prices that will be a year old at or about the time of the project, may very well open the door for escalation change orders and the real possibility of the contractor looking to recoup these additional costs. Moreover, re-bidding the project will allow all of the bidders sufficient time to "sharpen their pencils" with the accordant savings being passed on to the citizens of Miami Beach.

While Tran Construction has always had an excellent working relationship with the City of Miami Beach, if the contract is awarded to Regosa, against the City Manager's recommendations, Tran may very well be forced to file its own bid protest.

Hopefully, the City of Miami Beach will seriously consider the recommendations of its City Manager and re-bid the project at a time closer to the actual construction.

Sincerely,



KEVIN J. TAYLOR

KJT/bk

cc: Tran Construction
City of Miami Beach Office of Procurement Via Facsimile: 305-473-7861

Leiby Taylor Stearns Linkhorst and Roberts, P.A.
1390 North University Drive, Ft. Lauderdale, Florida 33322
Broward (954) 382-9199 Fax (954) 382-9063

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A REFERRAL TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE A PRESENTATION AND DISCUSSION OF THE BASIS OF DESIGN REPORT FOR PHASE II OF THE SOUTH POINTE NEIGHBORHOOD RIGHT OF WAY IMPROVEMENT PROJECT.**

ANALYSIS

Through the City's ongoing Planned Progress Capital Improvement Program, staff and consultants are moving forward with the planning and design of Phase II of the South Pointe Neighborhood Right of Way Improvement Project. The project area is bounded by Washington Avenue on the east, 2nd Street on the south, 5th Street on the north, and Alton Road on the west. The project includes comprehensive stormwater, water, and streetscape improvements. The City has followed its standard planning procedure for the project which includes the identification of needed improvements and the consideration of various alternatives which meet those needs. As part of the process, two Community Design Workshop (CDW) meetings were held on March 4th, 2003 and May 1st, 2003 and general consensus among the participating residents was obtained. A draft Basis of Design Report (BODR) was then developed and circulated for review. A component of the BODR review was the presentation of the proposed improvements to the Historic Preservation Board and the Design Review Boards for the areas that fall within their jurisdictions.

For most of the City's Neighborhood ROW Improvement Projects, the next step in the process is a review of the BODR by the GO Bond Oversight Committee prior to review and approval by the Commission. This meets the GO Bond fund spending oversight requirements and provides another advertised public forum for discussion of the planned improvements. In the case of this neighborhood, funding is provided by the South Pointe RDA rather than GO Bond fund so it is not appropriate to bring the item to the GO Bond Oversight Committee.

In order to provide a level of review and public participation for this project that is equivalent to that of the Go Bond funded projects, the Administration recommends that the project BODR be referred to the Finance and Citywide Projects Committee for presentation and discussion. This will also provide an opportunity for a discussion of proposed streetscape and parking treatments for Jefferson Avenue. In regard to the latter, the HP Board has provided initial direction in response to the presentation of the BODR as a discussion item that is substantially different from that recommended by the design team and City staff and which raises concerns about the use of City right-of-way which is substantially encroached upon by many property owners. When the City attempted to follow this exact course of action during Phase I of the project, a storm of controversy and

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Date 9-10-03

September 10, 2003
Commission Memorandum
Referral to Finance
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criticism of the City was generated and the design was revised during the construction Phase to obviate the need to utilize the additional 4 feet of right of way.

Therefore, to assure adequate public and official review of the project BODR, and to discuss some specific issues that have arisen with the project design, the Administration recommends the City Commission refer a discussion of the South Pointe Neighborhood ROW Improvement Project BODR to the Finance and Citywide Projects Committee at their next meeting.

JMG/RM/TH/dps

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

**Subject: REFERRAL TO THE FINANCE AND CITYWIDE PROJECTS
COMMITTEE OF PROPOSED AMENDMENTS TO THE BEACHFRONT
CONCESSION AGREEMENT BY AND BETWEEN THE CITY AND
BOUCHER BROTHERS MIAMI BEACH, LLC**

ADMINISTRATION RECOMMENDATION

Refer the item.

ANALYSIS

In October 2001, Boucher Brothers Miami Beach, LLC (Boucher Brothers) was awarded the concession agreement to manage and operate the beachfront concession operations seaward of certain City parks.

The Agreement provided that at the end of the first contract year, the City and Boucher Brothers would meet to review Concessionaire's performance for said contract year to discuss quality, operational, maintenance and any other related issues. The City and Boucher Brothers met on several occasions to discuss certain contract provisions that should be revisited in order to address inconsistencies and operational issues that have been identified, including certain matters which should be memorialized which were not included in the original contract.

Over the past several months the Administration has continued to meet with Boucher Brothers in an attempt to clarify the terms and conditions related to the aforementioned provisions, including, but not limited to:

SEC	TITLE	ISSUE(S)
2.1	Lummus Concession Area	Redefine Buffer Zones
3.1.3	Uses	Increase number of chairs within any one zone by transfer from another zone without increasing overall permitted number of chairs within the Lummus Concession Area Allow for temporary shifting of concession areas for contiguous operations during special events

Agenda Item C4C

Date 9-10-03

3.2.1	Food and Beverage Service	4 to 5 stationary Ice Cream carts, subject to design review approval
3.5.2	Storage of Concession Facilities/Equipment	Create Storage Cell north of 10 th Street
4.3	Percentage of Gross (PG) vs. Minimum Guarantee (MG)	Clarification of first year "ramp-up"
4.3.1	Minimum Guarantee on Option Services (MGO)	Watersports percentage waiver, due to impact of beach re-nourishment project
5	Maintenance and Examination of Records	Audit and agreed upon procedures Substitution of printing cash registers for equipment rentals
9	Hours of Operation	Feasibility of Operations at North Shore Open Space Park & Ocean Terrace
11	Insurance	Reduction of watersport liability insurance limits to be consistent with those required of all other watersport operators.
14	Performance Bond or Alternate Security	Performance bond to remain at \$200,000 throughout term of Agreement (without increase to \$400,000 in 3 rd year)
16.1	Special Events	Impact on concession activities and loss of compensation from Special Events, due to fee waivers
16.4	Sponsorships and Endorsements	<i>Newly proposed concept by Concessionaire</i>

It is recommended that the aforementioned terms being proposed as possible amendments to the Boucher Brothers Concession Agreement be discussed and reviewed by the Finance and Citywide Projects Committee prior to final consideration for approval by the City Commission.

JMG\CMC\JD\rlr

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: REFERRAL TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE, FOR REVIEW AND DISCUSSION, THE PROPOSED CONCESSION AGREEMENTS WITH MARKET COMPANY, INC., FOR THE LINCOLN ROAD GREEN MARKET, THE ESPANOLA WAY MARKET AND THE NORMANDY VILLAGE MARKET

ADMINISTRATION RECOMMENDATION

Refer the item.

ANALYSIS

On March 19, 2003, via Resolution 2003-25154, the Mayor and City Commission authorized the Administration to negotiate with the Market Company, Inc. (Market Company) concession agreements for the Lincoln Road Green Market, the Espanola Way Street Market and the Normandy Village Street Market.

The Administration has since met on several occasions with the Market Company, as well as with certain merchant organizations, neighborhood associations, and local property owners regarding the aforementioned agreements. Drafts of the respective concession agreements, once completed, will be made available to the Finance and City wide Projects Committee, at which time it is recommended that the following issues be addressed from a policy perspective:

Fee for Vendor/Merchant Spaces

- City is proposing that booth fees be equal regardless of vendor status.
- Market Company is proposing the attached fee schedule (Exhibit A).

Off-duty Police

- City is proposing that those markets which require street closure (Espanola Way and Normandy Isle) have off-duty police presence daily, during all hours of operation (including load-in and load-out times), which is consistent with the City's policy for street closures.
- Market Company is proposing off-duty police presence only during the initial four hours (including load-in) and final four hours (including load-out) of operation.

Fee/Concession Revenue

- RFP required a minimum of 10% of gross receipts by the market producer.

Agenda Item C4D

Date 9-10-03

- Market Company is proposing the following annual monetary return to the City:

Lincoln Road:

15% of gross revenues to City (\$13,500 based on Market Company's 2003 estimate of \$90,000 in gross revenues); plus \$12,000 to Lincoln Road Marketing Inc., which represents 13% of projected gross revenues, (\$6,000 to Lincoln Road Marketing, Inc. and \$6,000 for Lincoln Road street market publicity).

Espanola Way:

15% of gross revenues to City (\$18,000 based on Market Company's 2003 estimate of \$120,000 in gross revenues); plus \$18,000 to Espanola Way Association, which represents 15% of projected gross revenues, (\$9,000 in cash and \$9,000 in in-kind services to the Espanola Way Association).

Normandy Village:

15% of gross revenues to City; plus \$6,000 in in-kind services to the North Beach Development Corporation, market entertainment and special event production.

As part of the negotiations, the Administration requested the Market Company remit, directly to the City, the additional remunerations referenced above, that would inure to the benefit of the area associations so that the City Commission could determine the proper allocation methodology and intended use and beneficiaries. However, during said negotiations, the Market Company indicated that said additional amounts are no longer being paid and that circumstances have changed, affecting the price proposals submitted, with respect to the additional remuneration, thereby offering only the 15% return to the City.

Attached for your easy reference, are the price proposals submitted as part of the response to the RFP (Exhibit B) and the revised figures (Exhibit C) submitted on August 29, 2003.

The Finance and Citywide Projects Committee should discuss whether the Market Company's revised proposals should be evaluated or should negotiation terminate.

JMG\CMC\JD\rir

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Lincoln Road Green Market Fee Schedule

Winter/Spring Season (December – May)

Plants – Large Plants/Shrubs, Trees	\$	40/space
Plants – Medium Sized		60/space
Plants – Small Sized		40/space
Orchids		80/space
Cut Flowers (Two Booths)		80/space
(One Booth)		60/space
Tropical Fruits/Drinks		80/space
Fruits/Vegetables (Three Booths)		90/space
(Two Booths)		75/space
(One Booth)		60/space
Bread (Established)		80/space
(New)		50/space
Miscellaneous		
Guacamole (Established)		60/space
Honey (Established)		60/space
Nuts (Established)		60/space
Miscellaneous		
New		30 – 50/space

Summer Season (June – November)

Plants – Large Plants/Shrubs, Trees	\$	64/space
Plants – Medium Sized		48/space
Plants – Small Sized		40/space
Orchids		64/space
Cut Flowers (Two Booths)		64/space
(One Booth)		48/space
Tropical Fruits/Drinks		64/space
Fruits/Vegetables (Three Booths)		72/space
(Two Booths)		60/space
(One Booth)		48/space
Bread (Established)		64/space
(New)		40/space
Miscellaneous		
Guacamole (Established)		48/space
Honey (Established)		48/space
Nuts (Established)		48/space
Miscellaneous		
New		24 – 40/space

Española Way Weekend Festival Fee Schedule

Winter/Spring Season (December – May)

Friday night	\$	30
Saturday		50
Saturday night		50
Saturday & night		90
Sunday		60
Artists at night		20
Drexel Avenue		
Saturday & night		60
Sunday		60
Holiday		55

Summer/Fall Season (June – November)

Friday night	\$	25
Saturday		45
Saturday night		40
Saturday & night		75
Sunday		50
Artists at night		15
Drexel Avenue		
Saturday & night		50
Sunday		50
Holiday		45

Normandy Village Marketplace Fee Schedule

Year-round

Plants – Large/Trees, Shrubs	\$	40/space
Plants – Medium		40/space
Plants – Small		30/space
Orchids		60/space
Cut Flowers		
(Two Booths)		65/space
(One Booth)		45/space
(Small Booth)		25/space
Vegetables		
(Three Booths)		75/space
(Two Booths)		50/space
Tropical Drinks		50/space
Jewelry/Sunglasses		50/space
Miscellaneous		35 – 50/space

Price Proposal:

Exhibit "B"

Staff:

Bookkeeper/Records	\$	5,200
CPA		2,400
Interviewer		5,200
Operations		3,900
Supervisor		6,240
Publicist		6,000
Executive Manager		30,000

Security Deposit	2,500
City Auditor	Unknown
City Occupational License	100
City Use License	100
County Use License	50
Insurance	1,000
Street Cleaning Once/Month	3,600
Trash Pickup Each Week	5,200
15% Gross Revenues to City of Miami Beach	13,500
10% Profit	9,000
Total	\$ 93,990

Price Proposal:

Staff

Market Manager	20,000
Assistant Manager	12,000
Operations Supervisor	7,000
CPA	3,400
Publicist	6,000
Executive Manager	30,000
Office Rental	12,000
Security Deposit	2,500
City Auditor	Unknown
City Occupational License	100
City Use License	100
County Use License	50
Insurance	3,000
Street Cleaning One/Month	3,600
Trash Pickup Each Week	5,200
15% Gross Revenues to City of Miami Beach	27,000
15% Gross Revenues to Española Way Association	27,000
12.5% Profit	22,500
	\$181,450

Price Proposal:

Staff:

Bookkeeper/Records/Interviewer	
CPA	\$ 2,400
Operations	5,200
Supervisor	6,240
Publicist	1,200
Executive Manager	7,000

Security Deposit	2,500
City Auditor	Unknown
City Occupational License	100
City Use License	100
County Use License	50
Insurance	1,000
Office Rent	2,400
Street Cleaning Once/Month	1,800
15% Gross Revenues to City of Miami Beach	6,000
10% Profit	4,000

Total	\$ 39,990
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Lincoln Road Green Market Budget Revision – August 31, 2003

Proposed Income 2003:

Actual To-Date	\$63,308
Proposed 9/03 – 11/03	18,900
Proposed 12/03	8,400

Proposed Total

\$90,608

Proposed Expenses 2003:

Personnel

Administrator	\$11,666
CPA	2,400
Supervisor	6,500
Operations	3,900
Executive Manager	30,000

Personnel Total

\$54,466

City Concession Fee 15%	13,500
City Security Deposit	2,500
City Occupational License	100
City Use License	100
County Use License	50
Insurance	1,000

Fees/Insurance/Licenses Total

\$17,250

Memberships 30%

\$ 322

MBCofCommerce

GMCVB

Festivals Association

Office Expenses 30%

\$ 5,866

Profit 10%

\$ 9,000

Publicity 30%

Guest Informant	2,000
Welcome Magazine	1,000
Where Magazine	1,000
Flyers	1,000
Website	100
Eflyer	100

Publicity Total

\$ 5,200

Street Cleaning

\$ 3,328

Proposed Total Expenses 2003/4

\$95,432

Española Way Weekend Festival Budget Revision – August 31, 2003

Proposed Income 2003:

Actual To-Date	\$ 79,891
Proposed 9/03 – 11/03	31,500
Proposed 12/03	12,600

Proposed Total	\$123,991
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Proposed Expenses 2003:

Personnel

Administrator	\$11,666
CPA	2,400
Supervisor	20,800
Operations	11,666
Executive Manager	30,000

Personnel Total	\$76,532
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City Concession Fee 15%	18,598
City Security Deposit	2,500
City Occupational License	100
City Use License	100
County Use License	50
Insurance	1,000

Fees/Insurance/Licenses Total	\$22,348
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Española Way Association	\$ 1,000
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Membership Fees 40%	\$ 918
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MBCofCommerce	
GMCVB	
Festivals Association	

Office Expenses 40%	\$16,760
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Profit 10%	\$12,399
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Publicity 40%

Guest Informant	2,400
Welcome Magazine	400
Where Magazine	400
Flyers	500
Website	200

Publicity Total	\$ 3,900
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Street Cleaning	\$ 2,000
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Proposed Total Expenses 2003/4	\$135,857
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Normandy Village Marketplace Budget Revision – August 31, 2003

Proposed Income 2003:

Actual To-Date	\$26,436
Proposed 9/03 – 11/03	8,538
Proposed 12/03	3,000

Proposed Total	\$37,974
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Proposed Expenses 2003:

Personnel

Administrator	\$ 2,400
CPA	1,200
Supervisor	6,500
Operations	2,400
Executive Manager	7,000

Personnel Total	\$19,500
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City Concession Fee 15%	5,696
City Security Deposit	1,000
City Occupational License	100
City Use License	100
County Use License	50
Insurance	1,000

Fees/Insurance/Licenses Total	\$ 7,946
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Membership Fees	\$ 229
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MBCofCommerce
GMCVB
Festivals Association

Office Expenses 10%	\$ 4,190
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Profit 10%	\$ 3,797
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Publicity 10%

Guest Informant	600
Welcome Magazine	200
Where Magazine	200
Flyers	300
Website	100

Publicity Total	\$ 1,400
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Street Cleaning	\$ 1,000
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Proposed Total Expenses 2003/4	\$38,062
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PRICE PROPOSAL: AGREGATE
(Lincoln Road/Espanola Way/Normandy Isle)

STAFFING		Original	Revised	Difference
	Bookkeeper/Records	\$5,200	\$0	(\$5,200)
	CPA	\$8,200	\$6,000	(\$2,200)
	Interviewer	\$5,200	\$0	(\$5,200)
	Operations	\$9,100	\$17,966	\$8,866
	Market Manager	\$20,000	\$0	(\$20,000)
	Assistant Manager	\$12,000	\$0	(\$12,000)
	Administrator	\$0	\$25,732	\$25,732
	Operations Supervisor	\$7,000	\$0	(\$7,000)
	Supervisor	\$12,480	\$33,800	\$21,320
	Publicist	\$13,200	\$0	(\$13,200)
	Executive Manager	\$67,000	\$67,000	\$0
Total Staffing		\$159,380	\$150,498	(\$8,882)
OTHER				
	Office Rental	\$14,400	\$0	(\$14,400)
	Security Deposit	\$7,500	\$6,000	(\$1,500)
	City Auditor	\$0	\$0	\$0
	City Occupational License	\$300	\$300	\$0
	City Use License	\$300	\$300	\$0
	County Use License	\$150	\$150	\$0
	Insurance	\$5,000	\$3,000	(\$2,000)
	Street Cleaning (Monthly)	\$9,000	\$4,328	(\$4,672)
	Trash Pick-Up (Weekly)	\$10,400	\$0	(\$10,400)
	Memberships	\$0	\$1,469	\$1,469
	Office Expenses	\$0	\$26,816	\$26,816
	Publicity	\$0	\$10,500	\$10,500
	15% Gross Revenues to City	\$46,500	\$37,794	(\$8,706)
	Fee to Association*	\$27,000	\$1,000	(\$26,000)
	Profit to Market Company	\$35,500	\$25,196	(\$10,304)
Total Other		\$156,050	\$116,853	(\$39,197)
TOTAL		\$315,430	\$267,351	(\$48,079)

Reduction in aggregate fees to City of \$8,706, mainly due to decrease in estimated Gross Revenue in the Espanola Market from \$180,000 (Original Proposal) to approximately \$124,000 (Revised Proposal).

PRICE PROPOSAL:

LINCOLN ROAD

STAFFING		Original	Revised	Difference
	Bookkeeper/Records	\$5,200		(\$5,200)
	CPA	\$2,400	\$2,400	\$0
	Interviewer	\$5,200		(\$5,200)
	Operations	\$3,900	\$3,900	\$0
	Market Manager			\$0
	Assistant Manager			\$0
	Administrator		\$11,666	\$11,666
	Operations Supervisor			\$0
	Supervisor	\$6,240	\$6,500	\$260
	Publicist	\$6,000		(\$6,000)
	Executive Manager	\$30,000	\$30,000	\$0
Total Staffing		\$58,940	\$54,466	(\$4,474)
OTHER				
	Office Rental			\$0
	Security Deposit	\$2,500	\$2,500	\$0
	City Auditor			\$0
	City Occupational License	\$100	\$100	\$0
	City Use License	\$100	\$100	\$0
	County Use License	\$50	\$50	\$0
	Insurance	\$1,000	\$1,000	\$0
	Street Cleaning (Monthly)	\$3,600	\$3,328	(\$272)
	Trash Pick-Up (Weekly)	\$5,200		(\$5,200)
	Memberships (30%)		\$322	\$322
	Office Expenses (30%)		\$5,866	\$5,866
	Publicity (30%)		\$5,200	\$5,200
	15% Gross Revenues to City	\$13,500	\$13,500	\$0
	Fee to Merchant Association			\$0
	Profit to Market Company (10%)	\$9,000	\$9,000	\$0
Total Other		\$35,050	\$40,966	\$5,916
TOTAL		\$93,990	\$95,432	\$1,442

<u>Primary changes from "Original" to "Revised" price proposals:</u>			
"Bookkeeper" eliminated at a savings of:	(\$5,200)		
"Interviewer" eliminated at a savings of:	(\$5,200)	(\$10,400)	
"Administrator" added at a cost of:	\$11,666	\$11,666	
<u>Other changes:</u>			
"Publicist" eliminated at a savings of:	(\$6,000)		
"Trash Pick-up" eliminated at a savings of:	(\$5,200)	(\$11,200)	
"Publicity" added at a cost of:	\$5,200		
"Office Expenses" added at a cost of:	\$5,866	\$11,066	
TOTAL			\$1,132

PRICE PROPOSAL:

ESPANOLA WAY

STAFFING		Original	Revised	Difference
	Bookkeeper/Records			\$0
	CPA	\$3,400	\$2,400	(\$1,000)
	Interviewer			\$0
	Operations		\$11,666	\$11,666
	Market Manager	\$20,000		(\$20,000)
	Assistant Manager	\$12,000		(\$12,000)
	Administrator		\$11,666	\$11,666
	Operations Supervisor	\$7,000		(\$7,000)
	Supervisor		\$20,800	\$20,800
	Publicist	\$6,000		(\$6,000)
	Executive Manager	\$30,000	\$30,000	\$0
Total Staffing		\$78,400	\$76,532	(\$1,868)
OTHER				
	Office Rental	\$12,000		(\$12,000)
	Security Deposit	\$2,500	\$2,500	\$0
	City Auditor*			\$0
	City Occupational License	\$100	\$100	\$0
	City Use License	\$100	\$100	\$0
	County Use License	\$50	\$50	\$0
	Insurance	\$3,000	\$1,000	(\$2,000)
	Street Cleaning (Monthly)	\$3,600		(\$3,600)
	Trash Pick-Up (Weekly)	\$5,200		(\$5,200)
	Memberships (40%)		\$918	\$918
	Office Expenses (40%)		\$16,760	\$16,760
	Publicity (40%)		\$3,900	\$3,900
	15% Gross Revenues to City	\$27,000	\$18,598	(\$8,402)
	Fee to Merchant Association	\$27,000	\$1,000	(\$26,000)
	Profit to Market Company (12.5% vs. 10%)	\$22,500	\$12,399	(\$10,101)
Total Other		\$103,050	\$57,325	(\$45,725)
TOTAL		\$181,450	\$133,857	(\$47,593)

<u>Primary changes from "Original" to "Revised" price proposals:</u>			
"Market Manager" eliminated at a savings of:	(\$20,000)		
"Assistant Manager" eliminated at a savings of:	(\$12,000)		
"Operation Supervisor" eliminated at a savings of:	(\$7,000)		
"Publicist" eliminated at a savings of:	(\$6,000)		(\$45,000)
"Operations Staff" added at a cost of:	\$11,666		
"Administrator" added at a cost of:	\$11,666		
"Supervisor" added at a cost of:	\$20,800		\$44,132
<u>Other changes:</u>			
"Office Rental" eliminated at a savings of:	(\$12,000)		
"Street Cleaning" eliminated at a savings of:	(\$3,600)		
"Trash Pick-up" eliminated at a savings of:	(\$5,200)		(\$20,800)
"Publicity" added at a cost of:	\$3,900		
"Office Expenses" added at a cost of:	\$16,760		\$20,660
"Fees to Merchant Association" reduced at a savings of:	(\$26,000)		
"Profit to Market Company" reduced at a savings of:	(\$10,101)		
"% of Gross to City" reduced at a savings of:	(\$8,402)		(\$44,503)
TOTAL			(\$45,511)

PRICE PROPOSAL: NORMANDY ISLE

STAFFING		Original	Revised	Difference
	Bookkeeper/Records/Interviewer			\$0
	CPA	\$2,400	\$1,200	(\$1,200)
	Interviewer (see above)			\$0
	Operations	\$5,200	\$2,400	(\$2,800)
	Market Manager			\$0
	Assistant Manager			\$0
	Administrator		\$2,400	\$2,400
	Operations Supervisor			\$0
	Supervisor	\$6,240	\$6,500	\$260
	Publicist	\$1,200		(\$1,200)
	Executive Manager	\$7,000	\$7,000	\$0
Total Staffing		\$22,040	\$19,500	(\$2,540)
OTHER				
	Office Rental	\$2,400		(\$2,400)
	Security Deposit	\$2,500	\$1,000	(\$1,500)
	City Auditor			\$0
	City Occupational License	\$100	\$100	\$0
	City Use License	\$100	\$100	\$0
	County Use License	\$50	\$50	\$0
	Insurance	\$1,000	\$1,000	\$0
	Street Cleaning (Monthly)	\$1,800	\$1,000	(\$800)
	Trash Pick-Up (Weekly)			\$0
	Memberships		\$229	\$229
	Office Expenses (10%)		\$4,190	\$4,190
	Publicity (10%)		\$1,400	\$1,400
	15% Gross Revenues to City	\$6,000	\$5,696	(\$304)
	Fee to Merchant Association			\$0
	Profit to Market Company (10%)	\$4,000	\$3,797	(\$203)
Total Other		\$17,950	\$18,562	\$612
TOTAL		\$39,990	\$38,062	(\$1,928)

Primary changes from "Original" to "Revised" price proposals:			
"CPA" reduced at a savings of:	(\$1,200)		
"Interviewer" eliminated at a savings of:	(\$2,800)		(\$4,000)
"Administrator" added at a cost of:	\$2,400		
"Supervisor" increased at a cost of:	\$260		\$2,660
"Publicist" eliminated at a savings of:	(\$1,200)		(\$1,200)
Other changes:			
"Office Rental" eliminated at a savings of:	(\$2,400)		
"Security Deposit" reduced at a savings of:	(\$1,500)		
"Street Cleaning" reduced at a savings of:	(\$800)		(\$4,700)
"Office Expenses" added at a cost of:	\$4,190		
"Publicity" added at a cost of:	\$1,400		\$5,590
TOTAL			(\$1,650)

the
Market
c o m p a n y

Miami's Premier Special Events and Festival Company

August 29, 2003

Mr. Joe Damien
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Re: Market Contracts

Dear Joe:

Attached are a letter of explanation regarding the changes in finances for the associations/marketing, site plans and revised budgets for all three markets.

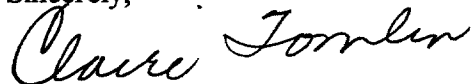
I have a call in to my husband, Don, regarding the Profit & Loss Statement. We will get that over the weekend. My only records are the Profit & Loss for The Market Company which does not break out the individual markets. We may have to work on that.

I have to prepare the fee schedules and get the Planning Department approvals. I will deliver the fee schedules Tuesday and also the Planning Department approvals or their status.

I have delivered a copy of all of this to Christina Cuervo.

Thanks.

Sincerely,



Claire Tomlin
Attachments

cc: Christina Cuervo

the Market company

Miami's Premier Special Events and Festival Company

August 29, 2003

Mr. Joe Damien
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Re: Explanation of Changes in Finances for Associations/Marketing

Dear Joe:

Pursuant to your request, the reasons for changes in the manner in which I pay for marketing and assist the associations follow:

The Associations on Española Way and Lincoln Road have not established themselves financially well enough to do the kinds of marketing I feel is necessary. In turn The Market Company has made the following financial commitments that will aide all of our Miami Beach markets and the associations related thereto.

We are Pillar members of the Miami Beach Chamber of Commerce for \$1,500 a year, annual members of the Greater Miami Visitors & Convention Bureau for \$695 a year, members of the Miami-Dade County Festivals Association for \$100 a year and are members of the Florida Farmers Market Association for \$100 a year. The Chamber gives out our brochures in its Welcome Center, invites us to Newcomer Breakfasts to introduce our markets and asks us to participate in its events. GMV&CB promotes our markets in all of their publications and gives us authority to place our market brochures in the Miami Beach Convention Center. The Festival Association assists in marketing our events as does the State of Florida Farmers Market Association. We are expanding our website to be even more informative and have joined Miami Beach 411, a new marketing website that sends emails which feature our markets to local residents throughout Miami Beach.

In addition, to give good publicity through advertising we made a major commitment to a 2/3's page ad in The Guest Informant which is a hard copy book placed in all hotel rooms as a guide to the City (copy of ad is attached). This book will be in the hotels in September and it remains there for one full year. Five thousand of our flyers which promote all three markets are being distributed throughout Miami Beach. We are committed to Welcome Magazine, Where Magazine, the Sun Post and Entertainment News & Views for advertising during 2003/2004 season.

On Española Way this summer in an effort to draw more customers from Lincoln Road we made a significant investment in penants and banners which can be seen from Lincoln Road, Fifteenth Street and Washington Avenue and advertised in the SunPost and The Herald *Neighbors Section* to announce a new feature we called our *Jewelry Bazaar*.

We also printed 5,000 flyers which have been distributed throughout neighborhoods and in public and business locations.

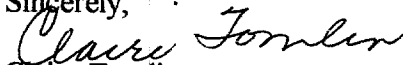
Our relationship with the Española Way Association has changed. We helped develop the organization and were employed for two years as manager at a fee of \$26,000/year. We oversaw grant writing which brought \$30,000 to the street for arts programming which we administered. There were opportunities through grant administration and programming administration to be paid for those services. These additional funds and our passion to make the street a very special cultural venue were the reasons we gave and planned to continue to contribute significant dollars to the association. Due to the confusion of The Market Company managing the markets and also managing the association the management is being changed September 1, 2003, and in turn the dollars we had used to contribute to the association are no longer available to us. In 2003, The Market Company was forced to pay off-duty City of Miami Beach police at \$29/hour which totaled approximately \$952/weekend. This is another reason our funds have been diminished. We still have strong positive feelings for Española Way, are active members of the Association, I am on the board of directors, and as a merchant on the street we contribute to the association dues, marketing efforts and in special assessments on a regular basis.

Lincoln Road Marketing Inc. considered employing The Market Company to manage its association and in turn we made financial and in-kind contributions to the marketing efforts. There has been no further conversation about that possibility since the beginning of 2003 and we have no longer paid for publicity for the road only for our market.

In North Beach our efforts were in-kind. In 2001, I went to NBDC to request quality of life funds to promote activities at the Normandy Fountain to try to bring more life and help the restaurants. Rather than give us funds, NBDC reserved quality of life funds and also obtained Miami-Dade County Community Grants to have music, entertainment, horticultural classes and events specifically for children. We worked together on this project. The Market Company used its tent, sound system, umbrellas and staff to develop and administer these events which went on for 9 months. The Market Company actually paid many of the bills and were reimbursed by NBDC. Our staff met with Jeannie Tidy and her staff this week about programming at the Normandy Fountain during the Saturday market beginning in October. Therefore, we probably will be making some significant in-kind contributions and we also volunteered to use the equivalent of one full page ad in the Miami Herald *Neighbors Section* to promote the fall activities in North Beach on Rue Vendome.

I hope the above explanation testifies to my feelings about giving funds to the City of Miami Beach beyond the 15% concession fee we agreed to in our application and we will begin paying with our month of September fee payment.

Sincerely,


Claire Tomlin

VICKI L. WALSH, P.A.

Certified Public Accountants

**5605 NORTH BAYSHORE DRIVE
MIAMI, FLORIDA 33137**

Tel (305) 757-7109 Fax (305) 754-0414
E-Mail vickiwalsh@bellsouth.net

TAX RETURN FILING INSTRUCTIONS

U S INCOME TAX RETURN FOR AN S CORPORATION

FORM 1120S

PREPARED FOR	THE MARKET COMPANY, INC
YEAR ENDED	12/31/02
AMOUNT OF TAX	NONE
MAIL RETURN TO	INTERNAL REVENUE SERVICE OGDEN UT 84201-0013
MAIL RETURN BY	SEPTEMBER 15, 2003
SIGNATURE	THE RETURN SHOULD BE SIGNED AND DATED BY AN OFFICER

U. S. Income Tax Return for an S Corporation

OMB No. 1545-0130

Department of the Treasury
Internal Revenue ServiceDo not file this form unless the corporation has timely filed
Form 2553 to elect to be an S corporation.
See separate instructions.

2002

For calendar year 2002, or tax year beginning and ending

A Effective date of election as an S corporation 1/1/2002	Use IRS label. Otherwise, print or type.	Name THE MARKET COMPANY		C Employer identification no. 65-0998144
B Business code no. (see pages 29-31) 445110		Number, street, and room or suite no. (If a P.O. box, see page 11 of the instructions.) 238 EAST SAN MARINO DRIVE		D Date incorporated 2/4/2000
		City or town MIAMI BEACH	State FL	ZIP code 33139	E Total assets (see page 11) $ 9,237

F Check applicable boxes: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change (5) ☐ Amended return

G Enter number of shareholders in the corporation at end of the tax year

Caution: Include ONLY trade or business income and expenses on lines 1a through 21. See page 11 of the instructions for more information.

Income	1 a	Gross receipts or sales	385,002	b	Less returns and allowances		c	Bal	1c	385,002	
	2	Cost of goods sold (Schedule A, line 8)								2	
	3	Gross profit. Subtract line 2 from line 1c								3	385,002
	4	Net gain (loss) from Form 4797, Part II, line 18 (attach Form 4797)								4	
	5	Other income (loss) (attach schedule)								5	
	6	TOTAL INCOME (LOSS). Combine lines 3 through 5								6	385,002
Deductions	7	Compensation of officers								7	
	8	Salaries and wages (less employment credits)								8	
	9	Repairs and maintenance								9	1,017
	10	Bad debts								10	
	11	Rents								11	16,721
	12	Taxes and licenses								12	14,187
	13	Interest								13	
	14 a	Depreciation (if required, attach Form 4562)						14a			
	b	Depreciation claimed on Schedule A and elsewhere on return						14b			
	c	Subtract line 14b from line 14a						14c			
	15	Depletion (DO NOT DEDUCT OIL AND GAS DEPLETION.)								15	
16	Advertising								16	8,960	
17	Pension, profit-sharing, etc., plans								17		
18	Employee benefit programs								18		
19	Other deductions (attach schedule)								19	299,708	
20	TOTAL DEDUCTIONS. Add the amounts shown in the far right column for lines 7 through 19								20	340,593	
Tax and Payments	21	Ordinary income (loss) from trade or business activities. Subtract line 20 from line 6								21	44,409
	22	TAX: a Excess net passive income tax (attach schedule)								22a	
	b	Tax from Schedule D (Form 1120S)								22b	
	c	Add lines 22a and 22b (see page 16 of the instructions for additional taxes)								22c	
	23	PAYMENTS: a 2002 estimated tax payments and amount applied from 2001 return								23a	
	b	Tax deposited with Form 7004								23b	
	c	Credit for Federal tax paid on fuels (attach Form 4136)								23c	
	d	Add lines 23a through 23c								23d	
	24	Estimated tax penalty. Check if Form 2220 is attached								24	
	25	TAX DUE. If the total of lines 22c and 24 is larger than line 23d, enter amount owed. See page 4 of the instructions for depository method of payment								25	
26	OVERPAYMENT. If line 23d is larger than the total of lines 22c and 24, enter amount overpaid								26		
27	Enter amount of line 26 you want: CREDITED TO 2003 ESTIMATED TAX								27		

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer

Title

May the IRS discuss this return with the preparer shown below (see instructions)? ☒ Yes ☐ No

Paid Preparer's Use Only

Preparer's signature

Date

3/16/2003

Check if self-employed

Preparer's SSN or PTIN

P00282131

Firm's name (or yours if self-employed), address, and ZIP code

Vicki L Walsh PA
5605 N Bayshore Dr
Miami

State FL

EIN 81-0563829

Phone no. 305 757-7109

ZIP code 33137

Schedule A Cost of Goods Sold (see page 17 of the instructions)

1	Inventory at beginning of year	1	
2	Purchases	2	
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule)	5	
6	TOTAL. Add lines 1 through 5	6	
7	Inventory at end of year	7	
8	COST OF GOODS SOLD. Subtract line 7 from line 6. Enter here and on page 1, line 2	8	

9 a Check all methods used for valuing closing inventory: (i) ☐ Cost as described in Regulations section 1.471-3
(ii) ☐ Lower of cost or market as described in Regulations section 1.471-4
(iii) ☐ Other (specify method used and attach explanation)

b Check if there was a writedown of "subnormal" goods as described in Regulations section 1.471-2(c) ☐

c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970) ☐

d If the LIFO inventory method was used for this tax year, enter percentage (or amounts) of closing inventory computed under LIFO 9d

e Do the rules of section 263A (for property produced or acquired for resale) apply to the corporation? ☐ Yes ☐ No

f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? ☐ Yes ☐ No

If "Yes," attach explanation.

Schedule B Other Information

1	Check method of accounting: (a) <input checked="" type="checkbox"/> Cash (b) <input type="checkbox"/> Accrual (c) <input type="checkbox"/> Other (specify) 	Yes	No
2	Refer to the list on pages 29 through 31 of the instructions and state the corporation's principal: (a) Business activity MARKETS (b) Product or service PRODUCE		
3	Did the corporation at the end of the tax year own, directly or indirectly, 50% or more of the voting stock of a domestic corporation? (For rules of attribution, see section 267(c).) If "Yes," attach a schedule showing: (a) name, address, and employer identification number and (b) percentage owned		X
4	Was the corporation a member of a controlled group subject to the provisions of section 1561?		X
5	Check this box if the corporation has filed or is required to file FORM 8264, Application for Registration of a Tax Shelter <input type="checkbox"/>		
6	Check this box if the corporation issued publicly offered debt instruments with original issue discount <input type="checkbox"/> If so, the corporation may have to file FORM 8281, Information Return for Publicly Offered Original Issue Discount Instruments.		
7	If the corporation: (a) was a C corporation before it elected to be an S corporation OR the corporation acquired an asset with a basis determined by reference to its basis (or the basis of any other property) in the hands of a C corporation AND (b) has net unrealized built-in gain (defined in section 1374(d)(1)) in excess of the net recognized built-in gain from prior years, enter the net unrealized built-in gain reduced by net recognized built-in gain from prior years (see page 17 of the instructions) \$ 		
8	Check this box if the corporation had accumulated earnings and profits at the close of the tax year (see page 18 of the instructions) <input checked="" type="checkbox"/>		
9	Are the corporation's total receipts (see page 29 of the instructions) for the tax year AND total assets at the end of the tax year less than \$250,000? If "Yes," the corporation is not required to complete Schedules L and M-1.		X

Note: If the corporation had assets or operated a business in a foreign country or U.S. possession, it may be required to attach SCHEDULE N (FORM 1120), Foreign Operations of U.S. Corporations, to this return. See Schedule N for details.

Schedule K Shareholders' Shares of Income, Credits, Deductions, etc.

(a) Pro rata share items		(b) Total amount	
1	Ordinary income (loss) from trade or business activities (page 1, line 21)	1	44,409
2	Net income (loss) from rental real estate activities (attach Form 8825)	2	
3 a	Gross income from other rental activities 3a 		
b	Expenses from other rental activities (attach schedule) 3b 		
c	Net income (loss) from other rental activities. Subtract line 3b from line 3a	3c	
4	Portfolio income (loss):		
a	Interest income	4a	
b	Ordinary dividends	4b	
c	Royalty income	4c	
d	Net short-term capital gain (loss) (attach Schedule D (Form 1120S))	4d	
e (1)	Net long-term capital gain (loss) (attach Schedule D (Form 1120S))	4e(1)	
(2)	28% rate gain (loss) (3) Qualified 5-year gain 		
f	Other portfolio income (loss) (attach schedule)	4f	
5	Net section 1231 gain (loss) (other than due to casualty or theft) (attach Form 4797)	5	
6	Other income (loss) (attach schedule)	6	

Schedule K**Shareholders' Shares of Income, Credits, Deductions, etc. (continued)**

	(a) Pro rata share items	(b) Total amount	
Deductions	7 Charitable contributions (attach schedule)	7	4,750
	8 Section 179 expense deduction (attach Form 4562)	8	2,695
	9 Deductions related to portfolio income (loss) (itemize)	9	
	10 Other deductions (attach schedule)	10	
Investment Interest	11 a Interest expense on investment debts	11a	
	b (1) Investment income included on lines 4a, 4b, 4c, and 4f above	11b(1)	
	(2) Investment expenses included on line 9 above	11b(2)	
Credits	12 a Credit for alcohol used as a fuel (attach Form 6478)	12a	
	b Low-income housing credit:		
	(1) From partnerships to which section 42(j)(5) applies	12b(1)	
	(2) Other than on line 12b(1)	12b(2)	
	c Qualified rehabilitation expenditures related to rental real estate activities (attach Form 3468)	12c	
	d Credits (other than credits shown on lines 12b and 12c) related to rental real estate activities	12d	
	e Credits related to other rental activities	12e	
	13 Other credits	13	
Adjustmts & Tax Preference Items	14 a Depreciation adjustment on property placed in service after 1986	14a	
	b Adjusted gain or loss	14b	
	c Depletion (other than oil and gas)	14c	
	d (1) Gross income from oil, gas, or geothermal properties	14d(1)	
	(2) Deductions allocable to oil, gas, or geothermal properties	14d(2)	
	e Other adjustments and tax preference items (attach schedule)	14e	
Foreign Taxes	15 a Name of foreign country or U.S. possession ▶		
	b Gross income from all sources	15b	
	c Gross income sourced at shareholder level	15c	
	d Foreign gross income sourced at corporate level:		
	(1) Passive	15d(1)	
	(2) Listed categories (attach schedule)	15d(2)	
	(3) General limitation	15d(3)	
	e Deductions allocated and apportioned at shareholder level:		
	(1) Interest expense	15e(1)	
	(2) Other	15e(2)	
	f Deductions allocated and apportioned at corporate level to foreign source income:		
(1) Passive	15f(1)		
(2) Listed categories (attach schedule)	15f(2)		
(3) General limitation	15f(3)		
g Total foreign taxes (check one): ▶ <input type="checkbox"/> Paid <input type="checkbox"/> Accrued	15g		
h Reduction in taxes available for credit (attach schedule)	15h		
Other	16 Section 59(e)(2) expenditures: a Type ▶ b Amount ▶	16b	
	17 Tax-exempt interest income	17	
	18 Other tax-exempt income	18	
	19 Nondeductible expenses	19	1,158
	20 Total property distributions (including cash) other than dividends reported on line 22 below	20	31,625
	21 Other items and amounts required to be reported separately to shareholders (attach schedule)		
	22 Total dividend distributions paid from accumulated earnings and profits	22	
	23 INCOME (LOSS). (Required only if Schedule M-1 must be completed.) Combine lines 1 through 6 in column (b). From the result, subtract the sum of lines 7 through 11a, 15g, and 16b	23	36,964

Note: The corporation is not required to complete Schedules L and M-1 if question 9 of Schedule B is answered "Yes."

Schedule L Balance Sheets per Books		Beginning of tax year		End of tax year	
Assets		(a)	(b)	(c)	(d)
1	Cash		-775		4,306
2 a	Trade notes and accounts receivable				
b	Less allowance for bad debts				
3	Inventories				
4	U.S. Government obligations				
5	Tax-exempt securities				
6	Other current assets (attach schedule)				2,175
7	Loans to shareholders		5,831		2,756
8	Mortgage and real estate loans				
9	Other investments (attach schedule)				
10 a	Buildings and other depreciable assets			2,695	
b	Less accumulated depreciation			2,695	
11 a	Depletable assets				
b	Less accumulated depletion				
12	Land (net of any amortization)				
13 a	Intangible assets (amortizable only)				
b	Less accumulated amortization				
14	Other assets (attach schedule)				
15	Total assets		5,056		9,237
Liabilities and Shareholders' Equity					
16	Accounts payable				
17	Mortgages, notes, bonds payable in less than 1 year				
18	Other current liabilities (attach schedule)				
19	Loans from shareholders				
20	Mortgages, notes, bonds payable in 1 year or more				
21	Other liabilities (attach schedule)				
22	Capital stock		100		100
23	Additional paid-in capital				
24	Retained earnings		4,956		9,137
25	Adjustments to shareholders' equity (attach schedule)				
26	Less cost of treasury stock		()		()
27	Total liabilities and shareholders' equity		5,056		9,237

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return		X	Check to complete Sch M-1 & M-2
1	Net income (loss) per books	35,806	
2	Income included on Schedule K, lines 1 through 6, not recorded on books this year (itemize):		
3	Expenses recorded on books this year not included on Schedule K, lines 1 through 11a, 15g, and 16b (itemize):		
a	Depreciation	\$	
b	Travel and entertainment	\$ 192	
	Federal income tax	966	
4	Add lines 1 through 3	1,158	
		36,964	
5	Income recorded on books this year not included on Schedule K, lines 1 through 6 (itemize):		
a	Tax-exempt interest	\$	
6	Deductions included on Schedule K, lines 1 through 11a, 15g, and 16b, not charged against book income this year (itemize):		
a	Depreciation	\$	
7	Add lines 5 and 6		
8	Income (loss) (Sch K, line 23). Line 4 less line 7		36,964

Schedule M-2 Analysis of Accumulated Adjustments Account, Other Adjustments Account, and Shareholders' Undistributed Taxable Income Previously Taxed (see page 26 of the instructions)			
	(a) Accumulated adjustments account	(b) Other adjustments account	(c) Shareholders' undistributed taxable income previously taxed
1	Balance at beginning of tax year		
2	Ordinary income from page 1, line 21	44,409	
3	Other additions		
4	Loss from page 1, line 21	()	
5	Other reductions	8,603	
6	Combine lines 1 through 5	35,806	
7	Distributions other than dividend distributions	31,625	
8	Balance at end of tax year. Subtract line 7 from line 6	4,181	

SCHEDULE K-1
(Form 1120S)

Department of the Treasury
Internal Revenue Service

Shareholder's Share of Income, Credits, Deductions, etc.

▶ See separate instructions.
For calendar year 2002 or tax year

OMB No.1545-0130

2002

beginning , 2002, and ending , 20

Shareholder's identifying number ▶ 257-64-1233

Shareholder's name, address, and ZIP code
CLAIRE TOMLIN
238 EAST SAN MARINO DRIVE
MIAMI BEACH, FL 33139

Corporation's identifying number ▶ 65-0998144

Corporation's name, address, and ZIP code
THE MARKET COMPANY
238 EAST SAN MARINO DRIVE
MIAMI BEACH, FL 33139

- A** Shareholder's percentage of stock ownership for tax year (see instructions for Schedule K-1) ▶ 100.%
B Internal Revenue Service Center where corporation filed its return ▶ Ogden, UT 84201-0011
C Tax shelter registration number (see instructions for Schedule K-1) ▶
D Check applicable boxes: (1) ☐ Final K-1 (2) ☐ Amended K-1

(a) Pro rata share items			(b) Amount	(c) Form 1040 filers enter the amount in column (b) on:
Income (Loss)	1 Ordinary income (loss) from trade or business activities	1	44,409	See page 4 of the Shareholder's Instructions for Sch. K-1 (Form 1120S).
	2 Net income (loss) from rental real estate activities	2		
	3 Net income (loss) from other rental activities	3		
	4 Portfolio income (loss):			Sch. B, Part I, line 1 Sch. B, Part II, line 5 Sch. E, Part I, line 4 Sch. D, line 5, col. (f) Sch. D, line 12, col. (f) Sch. D, line 12, col. (g) Line 5 of worksheet for Sch. D, line 29 (Enter on return.)
	a Interest	4a		
	b Ordinary dividends	4b		
	c Royalties	4c		
	d Net short-term capital gain (loss)	4d		
	e (1) Net long-term capital gain (loss)	4e(1)		
	(2) 28% rate gain (loss)	4e(2)		
	(3) Qualified 5-year gain	4e(3)		See Shareholder's Instructions for Schedule K-1 (Form 1120S). (Enter on return.)
	f Other portfolio income (loss) (attach schedule)	4f		
	5 Net section 1231 gain (loss) (other than due to casualty or theft)	5		
Deductions	6 Other income (loss) (attach schedule)	6		
	7 Charitable contributions (attach schedule)	7	4,750	Sch. A, line 15 or 16
	8 Section 179 expense deduction	8	2,695	See page 6 of the Shareholder's Instructions for Schedule K-1 (Form 1120S).
	9 Deductions related to portfolio income (loss) (attach schedule)	9		
Investment Interest	10 Other deductions (attach schedule)	10		
	11 a Interest expense on investment debts	11a		Form 4952, line 1
	b (1) Investment income included on lines 4a, 4b, 4c, and 4f above	11b(1)		See Shareholder's Instructions for Schedule K-1 (Form 1120S).
Credits	(2) Investment expenses included on line 9 above	11b(2)		
	12 a Credit for alcohol used as fuel	12a		Form 6478, line 10
	b Low-income housing credit:			Form 8586, line 5
	(1) From section 42(j)(5) partnerships	12b(1)		
	(2) Other than on line 12b(1)	12b(2)		
	c Qualified rehabilitation expenditures related to rental real estate activities	12c		See pages 6 and 7 of the Shareholder's Instructions for Schedule K-1 (Form 1120S).
	d Credits (other than credits shown on lines 12b and 12c) related to rental real estate activities	12d		
	e Credits related to other rental activities	12e		
	13 Other credits	13		

For Paperwork Reduction Act Notice, see the Instructions for Form 1120S.

(HTA)

Schedule K-1 (Form 1120S) 2002

(a) Pro rata share items		(b) Amount	(c) Form 1040 filers enter the amount in column (b) on:
Adjustments and Tax Preference Items	14 a Depreciation adjustment on property placed in service after 1986 . . .	14a	See page 7 of the Shareholder's Instructions for Schedule K-1 (Form 1120S) and Instr. for Form 6251
	b Adjusted gain or loss	14b	
	c Depletion (other than oil and gas)	14c	
	d (1) Gross income from oil, gas, or geothermal properties	14d(1)	
	(2) Deductions allocable to oil, gas, or geothermal properties	14d(2)	
	e Other adjustments and tax preference items (attach schedule)	14e	
Foreign Taxes	15 a Name of foreign country or U.S. possession ▶ _____	15b	Form 1116, Part I
	b Gross income from all sources	15c	
	c Gross income sourced at shareholder level	15d	
	d Foreign gross income sourced at corporate level:		
	(1) Passive	15d(1)	
	(2) Listed categories (attach schedule)	15d(2)	
	(3) General limitation	15d(3)	
	e Deductions allocated and apportioned at shareholder level:		
	(1) Interest expense	15e(1)	
	(2) Other	15e(2)	
	f Deductions allocated and apportioned at corporate level to foreign source income:		
	(1) Passive	15f(1)	
(2) Listed categories (attach schedule)	15f(2)		
(3) General limitation	15f(3)		
	g Total foreign taxes (check one): ▶ <input type="checkbox"/> Paid <input type="checkbox"/> Accrued	15g	Form 1116, Part II
	h Reduction in taxes available for credit (attach schedule)	15h	See Instr. for Form 1116
Other	16 Section 59(e)(2) expenditures: a Type ▶ _____	16b	See Shareholder's Instructions for Schedule K-1 (Form 1120S). Form 1040, line 8b
	b Amount	16b	
	17 Tax-exempt interest income	17	See page 7 of the Shareholder's Instructions for Schedule K-1 (Form 1120S).
	18 Other tax-exempt income	18	
	19 Nondeductible expenses	19 1,158	
	20 Property distributions (including cash) other than dividend distributions reported to you on Form 1099-DIV	20 31,625	
	21 Amount of loan repayments for "Loans From Shareholders"	21	Form 8611, line 8
	22 Recapture of low-income housing credit:		
a From section 42(j)(5) partnerships	22a		
b Other than on line 22a	22b		
Supplemental Information	23 Supplemental information required to be reported separately to each shareholder (attach additional schedules if more space is needed):		

Depreciation and Amortization

(Including Information on Listed Property)

See separate instructions. Attach to your tax return.

Name(s) shown on return
THE MARKET COMPANYBusiness or activity to which this form relates
MARKETSIdentifying number
65-0998144**Part I Election To Expense Certain Tangible Property Under Section 179***Note: If you have any listed property, complete Part V before you complete Part I.*

1	Maximum amount. See page 2 of the instructions for a higher limit for certain businesses	1	24,000
2	Total cost of section 179 property placed in service (see page 2 of the instructions).	2	2,695
3	Threshold cost of section 179 property before reduction in limitation	3	200,000
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see page 2 of the instructions	5	24,000
(a) Description of property		(b) Cost (business use only)	(c) Elected cost
6	Refrigerator	1,000	1,000
7	Listed property. Enter the amount from line 29	7	1,695
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	2,695
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	2,695
10	Carryover of disallowed deduction from line 13 of your 2001 Form 4562.	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instructions)	11	24,000
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	2,695
13	Carryover of disallowed deduction to 2003. Add lines 9 and 10, less line 12	13	

*Note: Do not use Part II or Part III below for listed property. Instead, use Part V.***Part II Special Depreciation Allowance and Other Depreciation** (Do not include listed property.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see page 3 of the instructions)	14	
15	Property subject to section 168(f)(1) election (see page 4 of the instructions)	15	
16	Other depreciation (including ACRS) (see page 4 of the instructions)	16	

Part III MACRS Depreciation (Do not include listed property.) (See page 4 of the instructions.)**Section A**

17	MACRS deductions for assets placed in service in tax years beginning before 2002	17	
18	If you are electing under section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B - Assets Placed in Service During 2002 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19 a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property			27.5 yrs.	MM	S/L	
i Nonresidential real property			39 yrs.	MM	S/L	

Section C - Assets Placed in Service During 2002 Tax Year Using the Alternative Depreciation System

20 a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 40-year			40 yrs.	MM	S/L	

Part IV Summary (see page 6 of the instructions)

21	Listed property. Enter amount from line 28	21	
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	22	
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

Part V Listed Property (Include automobiles, certain other vehicles, cellular telephones, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A - Depreciation and Other Information (Caution: See page 8 of the instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed? <input type="checkbox"/> Yes <input type="checkbox"/> No				24b If "Yes," is the evidence written? <input type="checkbox"/> Yes <input type="checkbox"/> No				
(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/ investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment)	(f) Recovery period	(g) Method/ Convention	(h) Depreciation deduction	(i) Elected section 179 cost
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use (see page 7 of the instructions) 25								
26 Property used more than 50% in a qualified business use (see page 7 of the instructions):								
See Attached Sch. /								1,695
27 Property used 50% or less in a qualified business use (see page 7 of the instructions):								
						S/L-		
						S/L-		
						S/L-		
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1 28								
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1 29								1,695

Section B - Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
30 Total business/investment miles driven during the year (do not include commuting miles - see page 2 of the instructions)												
31 Total commuting miles driven during the year												
32 Total other personal (noncommuting) miles driven												
33 Total miles driven during the year. Add lines 30 through 32												
34 Was the vehicle available for personal use during off-duty hours?	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
35 Was the vehicle used primarily by a more than 5% owner or related person?												
36 Is another vehicle available for personal use?												

Section C - Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see page 8 of the instructions).

	Yes	No
37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?		
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See page 8 of the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? (See page 9 of the instructions.)		
Note: If your answer to 37, 38, 39, 40, or 41 is "Yes," do not complete Section B for the covered vehicles.		

Part VI Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2002 tax year (see pg. 9 of the instructions):					
43 Amortization of costs that began before your 2002 tax year					43
44 Total. Add amounts in column (f). See page 9 of the instructions for where to report					44

Tax Year: 12/31/2002

Section 179 Expense Deduction Before Limitations (Line 8)

Tax Year: 12/31/2002

63

Application for Automatic Extension of Time
To File Corporation Income Tax Return

OMB No. 1545-0233

Name of corporation

THE MARKET COMPANY

Employer identification number

65-0998144

Number, street, and room or suite no. (If a P.O. box or outside the United States, see instructions.)

238 EAST SAN MARINO DRIVE

City or town, state, and ZIP code

MIAMI BEACH

FL

33139

Check type of return to be filed:

☐ Form 990-C☐ Form 1120-FSC☐ Form 1120-PC☒ Form 1120S☐ Form 1120☐ Form 1120-H☐ Form 1120-POL☐ Form 1120-SF☐ Form 1120-A☐ Form 1120-L☐ Form 1120-REIT☐ Form 1120-F☐ Form 1120-ND☐ Form 1120-RIC* Form 1120-F filers: Check here if the foreign corporation does not maintain an office or place of business in the United States ☐

1 REQUEST FOR AUTOMATIC EXTENSION (see instructions)

- a EXTENSION DATE. I request an automatic 6-month (or, for certain corporations, 3-month) extension of time until 9/15/2003, 20 , to file the income tax return of the corporation named above for ☒ calendar year 2002 or ☐ tax year beginning , , and ending , 20

- b SHORT TAX YEAR. If this tax year is for less than 12 months, check reason:

☐ Initial return ☐ Final return ☐ Change in accounting period ☐ Consolidated return to be filed

2 AFFILIATED GROUP MEMBERS (see instructions). If this application also covers subsidiaries to be included in a consolidated return, provide the following information:

Name and address of each member of the affiliated group	Employer identification number	Tax period

3 Tentative tax (see instructions)

4 PAYMENTS AND REFUNDABLE CREDITS: (see instructions)

- a Overpayment credited from prior year

4a

- b Estimated tax payments for the tax year

4b

- c Less refund for the tax year applied for on Form 4466

4c

() BAL

4d

- e Credit for tax paid on undistributed capital gains (Form 2439)

4e

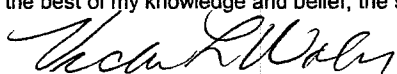
- f Credit for Federal tax on fuels (Form 4136)

4f

5 Total. Add lines 4d through 4f (see instructions)

6 BALANCE DUE. Subtract line 5 from line 3. DEPOSIT THIS AMOUNT USING THE ELECTRONIC FEDERAL TAX PAYMENT SYSTEM (EFTPS) OR WITH A FEDERAL TAX DEPOSIT (FTD) COUPON (see instructions)

SIGNATURE. Under penalties of perjury, I declare that I have been authorized by the above-named corporation to make this application, and to the best of my knowledge and belief, the statements made are true, correct, and complete.



(Signature of officer or agent)

CPA

(Title)

3/15/2003

(Date)

Line 12 (Form 1120S) - Taxes and Licenses

1	State franchise or income tax	1	150
2	Local property taxes	2	
3	Payroll taxes	3	
4	Licenses	4	
5	State taxes	5	14,037
6	. . . . .	6	
7	. . . . .	7	
8	. . . . .	8	
9	. . . . .	9	
10	Totals for taxes and licenses	10	14,187

Line 19, Sch K (Form 1120S) - Nondeductible Expenses

1	Nondeductible portion of meals and entertainment expenses	1	192
2	Federal income tax	2	966
3	. . . . .	3	
4	. . . . .	4	
5	. . . . .	5	
6	. . . . .	6	
7	. . . . .	7	
8	. . . . .	8	
9	. . . . .	9	
10	. . . . .	10	
11	. . . . .	11	
12	Total nondeductible expenses	12	1,158

Line 19 (Form 1120S) - Other Deductions

1	Travel, Meals and Entertainment				
	b Total meals and entertainment	1b	383		
	c 50% of line b	1c	192		
	d Subtract line c from line b	1d	191		
2	Auto	2	3,774		
3	Bank charges	3	2,563		
4	Dues and subscriptions	4	1,410		
5	Insurance	5	2,157		
6	Miscellaneous	6	2,214		
7	Office supplies and expense	7	24,092		
8	Postage	8	381		
9	Print and copy	9	5,069		
10	Promotion	10	5,481		
11	Professional fees	11	152,146		
12	Supplies	12	51,459		
13	Telephone	13	6,916		
14	Utilities	14	536		
15	Other	15	1,300		
16	Licenses and permits	16	24,498		
17	Consignments	17	4,455		
18	Store expenses	18	11,066		
19	Total other deductions	19	299,708		

Line 6, Sch L (Form 1120S) - Other Current Assets

		Beginning		End
1	LOANS RECEIVABLE	1		2,175
2		2		
3		3		
4		4		
5		5		
6		6		
7		7		
8		8		
9		9		
10		10		
11	Total other current assets			2,175

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: A REFERRAL TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE TO A) CONSIDER A REQUEST BY MIAMI-DADE COUNTY FOR THE MIAMI BEACH CITY COMMISSION, AS THE GOVERNING BODY OF THE REDEVELOPMENT AGENCY, IN ITS SOLE DISCRETION, TO EXEMPT THE CHILDREN'S TRUST, AN INDEPENDENT TAXING DISTRICT, FROM CONTRIBUTING ITS AD VALOREM TAX LEVY TO THE CITY'S REDEVELOPMENT TRUST FUND; AND B) A PROPOSAL BY MIAMI-DADE COUNTY TO IMPOSE A ONE AND ONE HALF PERCENT (1½ %) ADMINISTRATIVE FEE ON THE REDEVELOPMENT AGENCY'S PROPOSED FY 2003/04 BUDGET.

ADMINISTRATION RECOMMENDATION

Refer the Item.

ANALYSIS

Children's Trust Ordinance

On September 10, 2002, the voters of Miami-Dade County voted to amend the Home-Rule Charter to rename the independent special taxing district "The Children's Trust" and to authorize the levy of an additional ad valorem tax not to exceed one-half (½) mill for the purpose of funding improvements to children's health, development and safety and promoting parental and community responsibility.

On July 8, 2003, the Board of County Commissioners adopted on first reading an Ordinance whereby any future requests by municipalities and/or community redevelopment agencies relating to community redevelopment plans, including, but not limited to, approval of annual budgets, would require all Community Redevelopment Agencies, in their sole discretion, to exempt the Children's Trust Ad Valorem ½ mill Tax levy from collection into the redevelopment trust fund.

On August 4, 2003 at the County Tax Increment Finance (TIF) Committee meeting, the County Attorney stated that there would be no formal request submitted to each Agency for the exemption from the Trust but that alternatively, the municipalities should exempt the special district in their sole discretion and based upon the Board of County Commissioners anticipated action on September 17, 2003 to adopt the aforementioned ordinance.

Agenda Item C4E
Date 9-10-03

The City is currently consulting with outside Bond Counsel as to the City's legal ability to grant such exemption in light of existing bond covenants which pledge all current and future increment and provide for no specific exclusions or exemptions for special districts. A chart prepared by Miami –Dade County reflecting the estimated contribution towards the Children's Trust by each of the County's Community Redevelopment Areas (CRAs) is attached to the Memorandum. It should be noted that the combined contribution from the City Center and South Pointe CRAs would account for approximately 75% of the total contribution from all CRAs. City Center would have to contribute \$603,028 and South Pointe, \$624,010. On August 8, 2003, the City received the attached letter from the County, reflecting this year's projected increment and indicating that the Children's Trust would automatically retain its allocation, irrespective of any action taken by the municipality or agency.

It should be noted that Section 30A-18 of the County Code and Section 34-83 of the City Code provide that the increment shall be determined and appropriated annually, and shall be an amount equal to ninety five percent (95%) of the difference between:

1. that amount of ad valorem taxes levied each year by the city and the county on taxable real property located within the geographical boundaries of the redevelopment area; and
2. that amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied by the City and the County, upon the total of the assessed value of the taxable property in the project as shown on the assessment roll used in connection with the taxation of such property by the City and the County.

Administrative Fee

At the August 4, 2003 TIF Committee meeting, County staff advised that each CRA is requested to include a 1.5% Administrative fee in their respective FY 03/04 budgets. The City of Miami Beach staff requested the following information: 1) if this fee was based on a cost allocation plan based on the level of service provided to each of the CRAs and 2) how the fee impacts administrative fee caps that are imposed on the CRAs and not reflected as a percentage of increment collected but as an absolute dollar number. In the case of City Center, a \$500,000 administrative fee cap was imposed which currently represents 2.5% of total increment and the County is requesting a 1.5% fee. In the very near future it is conceivable that the County's Administrative fee will exceed the City's Administrative cap without a commensurate level of effort. In the case of City Center, the proposed fee would be \$103,015 and in the case of South Pointe, the fee would be \$106,599, for a total of \$209,614 of an estimated \$277,308 to be collected from all the CRAs. Collectively, the City's share would equal 75% of the total fees collected from each of the CRA districts, which may not be indicative of the actual level of support by the County that the City would require.

The County currently receives its share of tax revenue based on 100 percent of the base year's assessed value of the two redevelopment areas, which amounts to \$357,465 from South Pointe and \$1,753,678 from City Center annually. As indicated earlier, the increment the City's redevelopment areas receive is calculated on 95% of the increase in assessed value over the base year's value for property in the respective redevelopment areas, which means that the County retains its share of tax revenue based upon the remaining 5% of the assessed value in the two areas, which collectively amounts to approximately \$735,486, based on the preliminary tax roll for 2003 (\$374,031 from South Pointe and \$361,455 from City Center). Purportedly, the 5% retained by the County from the increment is to cover the County's administrative costs, however, this is not explicit in the Florida Statutes.

The Administration recommends that the Finance and Citywide Projects Committee discuss the County's request and the City's position on these issues.

JMG/^{auc}CMC:KOB
Attachments

T:\AGENDA\2003\Sept10\CONSENT\children's_Trust_finref1.doc

MIAMI-DADE COUNTY, FLORIDA



03 AUG 2003



STEPHEN P. CLARK CENTER

OFFICE OF MANAGEMENT AND BUDGET
111 N.W. 1ST STREET
SUITE 2710
MIAMI, FLORIDA 33128-1992
(305) 375-5143

August 8, 2003

Ms. Christina Cuervo, Assistant City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Miami-Dade County's Projected Tax Increment Financing (TIF) Payment to the Miami Beach Redevelopment Agency – City Center and request for submission of proposed budgets for FY 2003-04

Dear Ms. Cuervo:

This letter serves to inform you of the projected payment amount, several FY 2003-04 funding issues relating to the County's portion of tax increment revenues due to the City Center Redevelopment Tax Increment District and sets the due date of October 15, 2003 for budget submissions.

On July 1, 2003, the Miami-Dade County Property Appraiser released the 2003 preliminary tax roll. In accordance with State law, the County's TIF payment is the product of 95 percent of the final tax roll for each Tax Increment District multiplied by the approved millage rate. On July 22, 2003, the Board of County Commissioners (BCC) set the maximum countywide millage rate for FY 2003-04 at 5.994 mills. This millage rate is subject to the approval of the BCC at its budget hearings scheduled for September 3 and September 17. Also, the Value Adjustment Board has completed its work and finalized the tax roll of 2001, although the 2002, or 2003 tax rolls are still the preliminary releases. Therefore, we have a two-year lag for any overpayment or underpayment and can only include the 2001 final tax roll adjustment at this time.

Based on the preliminary tax roll, the proposed millage rate of 5.994, the payment factor of 95 percent, and the 2001 adjustment, the estimated payment that will be made by December 31, 2003, is determined as follows:

\$1,498,627,666 - Preliminary 2003 assessed value of tax increment district

(\$292,572,271) - Taxable value in Base Year – 1992

\$1,206,055,395 - Value of increment

\$6,867,641 - Revenue

(\$264,003) - Reduce for 2001 overpayment*

\$6,603,638 - Revenue payable to CRA by December 31, 2003

*\$1,169,579,777 - Final 2001 Tax Roll

\$1,218,222,763 - Preliminary 2001 Tax Roll

(\$48,642,986) - Revision per Value Adjustment Board

5.713 - Actual 2001 Millage

(\$264,003) - Adjustment amount for December 2003 check

After the final budget hearing on September 17, we will provide you with an updated letter indicating the adopted millage rate and subsequent incremental revenue due from the County.

The Office of Management and Budget must receive your FY 2003-04 proposed budget, including the County format summary form, by October 15, 2003. It will be reviewed by the County's TIF Committee on, or about November 10, and, upon its recommendation, will be scheduled for BCC Committee and then full BCC consideration prior to the December 31 payment date. Any non-compliance in the initial submission timeline may result in a delay in BCC consideration, so please plan to avoid any delay. The deadlines, timeline for approval and the following funding issues were reviewed and discussed at the County's TIF Committee meeting of August 4, 2003.

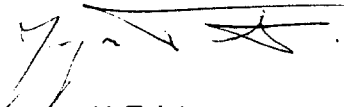
In FY 2003-04 Miami Dade County will implement a new charge relative to Community Redevelopment Agencies. This has been published in the County's 2003-2004 Proposed Budget Book in the Manager's message. Please include in your budget the amount of 1.5 percent of the County TIF payment as a County administrative reimbursement charge in anticipation of the implementation and final approval of such policy.

Furthermore, please be advised that the new Countywide 0.5 mills for the Children's Trust will not be distributed to Community Redevelopment Agencies. An ordinance implementing this exclusion is before the Board of County Commissioners (BCC). Also, be advised of that when you calculate your city's portion of tax increment revenues from the tax roll figures, that the Senior Citizens' \$25,000 property tax exemption is not uniformly applied by all cities in Miami-Dade County and you need to consider if your city also allows for this exemption.

Let me take a moment to thank you for having filed a report of activities for FY 2001-02 ended September 30, 2002. This required report of activity is an important part of the public process and your efforts are appreciated. We are, however, still awaiting your latest Audited Financial Statements, which were due March 31.

In closing, we appreciate your awareness of and cooperation regarding these important issues. If you have any questions, please do not hesitate to contact David Morris, or me at (305) 375-1537.

Sincerely,



Jurgen H. Teintze
TIF Coordinator and Senior Budget Analyst

cc: Jorge M. Gonzalez, City Manager, City of Miami Beach
Tony E. Crapp, Sr., Assistant County Manager
David M. Morris, Director
Bryan K. Finnie, Director, OCED

JV00303

COMMUNITY REDEVELOPMENT AREA TIF PAYMENT CALCULATOR

CRA , Tax Increment District	Base Year	Taxable Value in Base Year	Preliminary 2003Roll	FY 2003-04 Value of Increment	FY 2003-04 Increment CW Revenue*	Final vs Prelim Tax Roll Difference (over/under Paid 2001	Adjusted Dec 2003 Payment	County Administrative Charge for FY 2003-04 at 1.5% *	Children's Trust Estimated Contribution for FY 2003- 04 at 1/2 mil
Miami Beach:									
South Pointe	1976	\$59,637,130	\$1,307,656,152	\$1,248,019,022	\$7,106,595	(\$3,877)	\$7,042,718	\$108,599	\$624,010
Miami Beach City Center	1992	\$292,572,271	\$1,498,627,666	\$1,206,055,395	\$6,867,641	(\$264,002)	\$6,603,639	\$103,015	\$603,028
Miami:									
SE Overtown/Park West	1982	\$78,305,502	\$255,423,724	\$177,118,222	\$1,008,564	(\$60,800)	\$947,764	\$15,128	\$88,559
Park West Addition	1985	\$37,461,910	\$22,866,881	(\$14,595,029)	N/A				
Omni *	1986	\$246,898,822	\$558,525,281	\$311,626,459	\$1,774,495	\$279,299	\$2,053,794	\$26,617	\$155,813
Homestead									
Florida City	1993	\$85,619,084	\$225,442,672	\$139,823,588	\$796,197	\$15,436	\$811,633	\$11,943	\$69,912
South Miami	1994	\$42,803,875	\$108,555,781	\$65,751,906	\$374,411	(\$44,148)	\$330,263	\$5,616	\$32,876
Naranja Lakes CW	1998	\$68,437,390	\$196,300,898	\$127,863,508	\$383,207	(\$54,087)	\$329,120	\$5,748	\$63,932
	2002	\$131,520,904	\$153,481,459	\$21,960,555	\$125,050		\$125,050	\$1,876	\$10,980
Total		1,043,256,888	4,326,880,514	3,283,623,626	\$18,436,160	(\$192,180)	\$18,243,980	\$276,542	\$1,641,812
Naranja Lakes UMMA									
	2002	\$131,520,904	\$153,481,459	\$21,960,555	UMMA millage \$51,051		\$51,051	\$766	\$10,980
						Both CW & UMMA TIF payments		\$18,487,211	\$18,295,031
								\$277,308	

Note: * Revenue is calculated at 95% (max per Florida Statutes), but South Miami is receiving only 50%.

CW Millage of 5.994 is assumed
UMMA Millage 2.447 is assumed

Omni CRA pays back to the County approximately \$ 1.2 million for debt service on the Performing Arts Centers Notes

All CRA's pay back to the County the 1.5% Administrative Reimbursement Charge

County's Share of Tax Revenues - Based on 100% of Base Year Value	County's Share of Tax Revenues Based on 5% of Increment Value	Total Share of Tax Revenues Received by County
--	--	--

\$357,465	\$374,031	\$731,496
\$1,753,678	\$361,456	\$2,115,133

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

**Subject: A REFERRAL TO THE NEIGHBORHOODS COMMITTEE TO DISCUSS
THE AMENDMENTS TO CHAPTER 90 OF THE MIAMI BEACH CITY CODE
ENTITLED SOLID WASTE.**

ADMINISTRATION RECOMMENDATION

Refer the Item.

ANALYSIS

Chapter 90 of the Miami Beach City Code was originally drafted and codified in 1964 and has had no significant review and/or amendments since that time. The ordinance was originally drafted to ensure that all areas within the City are adequately provided with high quality solid waste collection and disposal service and to assure compliance with the sanitation ordinance. There are overriding public health, safety and welfare considerations associated with solid waste. Since the City is a world-class tourist designation, the public interest must be protected.

The proposed amendment is a result of a comprehensive review by the Neighborhood Services Department, Code Compliance Division and the Public Works Department, Sanitation Division. The City recently restructured compliance functions by consolidating the sanitation enforcement component into the Code Compliance Division. The rationale for merging these two functions was to increase the City's sanitation compliance efforts. In the past, a property with sanitation and code compliance violations required the involvement of two City departments. Currently, Code Compliance can respond to both code and sanitation violations and expedite the compliance process.

However, in attempting to adhere to Chapter 90, code compliance staff noticed no clear delineation between residential and commercial property fines, redundant language and outdated practices that are no longer relevant in 2003. The goal of the proposed amendment is to enhance the overall aesthetics of the City and quality of life for Miami Beach residents, visitors and business community.

Agenda Item C4F

Date 9-10-03

The amendment to Chapter 90 proposes the following:

- Creates definitions required to ensure that overall cleanliness and aesthetics are enhanced throughout the City.
- Deletes obsolete and/or unnecessary information.
- Brings Chapter 90 in line with current compliance procedures.
- Amends the fine schedule.
- Clearly delineates the fine schedule for the residential and business community.


JMG/RCM/VPG

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C: CMC
JG
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**CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM**

**TO: JORGE M. GONZALEZ
CITY MANAGER**

**FROM: SIMON CRUZ
COMMISSIONER**

DATE: SEPTEMBER 2, 2003

RE: AGENDA ITEM

Please place on the September 10th City Commission Agenda for referral to the Planning Board the following:

A proposed ordinance, amending the permitted uses for the MXE Mixed-Use Entertainment zoning district, to permit public and private institutions as a Conditional Use. This ordinance amendment is desired in order to permit the Versace Mansion on Ocean Drive to be converted to a private museum.

SC/ml

Agenda Item C46
Date 9-10-03

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Bob
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CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
CITY MANAGER'S
OFFICE
MEMORANDUM

TO: JORGE M. GONZALEZ
CITY MANAGER

FROM: JOSE SMITH JS
COMMISSIONER

DATE: September 4, 2003

RE: AGENDA ITEM
NORMANDY SHORES GOLF COURSE

Please refer to the Finance and Citywide Projects Committee a discussion on the status of the Normandy Shores Golf Course. I would appreciate a written report prior to the meeting and notification of all interested parties involved in the project.

Thank you.

JS/els

Agenda Item C4H
Date 9-10-03

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Refer for

**Subject: REPORT OF THE COMMUNITY AFFAIRS COMMITTEE MEETING OF
SEPTEMBER 4, 2003**

A Meeting of the Community Affairs Committee was held on Thursday, September 4, 2003. Commissioner Simon Cruz called the meeting to order at 2:20 p.m. Vice-Mayor Matti H. Bower was in attendance along with Commissioners Luis R. Garcia, Jr., Saul Gross and Richard L. Steinberg. An attendance sheet for the meeting is attached hereto.

OLD BUSINESS

1. DISCUSSION REGARDING APPROPRIATE MEMORIAL FOR THE LATE MAURICE GIBB.

ACTION: Mr. Koske, representative for the Maurice Gibb family, and Mr. Frank Kruszewski, Vice-President, of the Sunset Harbor Homeowners Association, agreed to proceed with the discussion on the appropriate memorial, i.e., fountain, bench, trees, etc. until after the November 2003 referendum when the renaming of the Park will be on the ballot for approval.

2. DISCUSSION TO CONSIDER THE APPROPRIATE FORMS OF RECOGNITION FOR PERSONS/COMPANIES DONATING FUNDS TO THE NORTH BEACH YOUTH CENTER.

ACTION: A discussion was held on the North Beach Youth Center Donor Recognition Program approved by the Friends of the North Beach Youth Center. Commissioner Luis R. Garcia, Jr., requested a list of the equipment, furniture, fixtures and dollars funded by the City for the Center and the proposed estimated donations and its uses for same.

3. DISCUSSION REGARDING DAVID NEVEL'S REQUEST TO CHANGE THE MEMORIAL/DEDICATION TO THE LATE JOSEPH NEVEL FROM THE COLLINS PARK FOUNTAIN TO THE COLLINS PARK PLAZA.

ACTION: It was recommended to name the Collins Park Plaza with the fountain placed in the middle of the area. Mr. Nevel is to work with the Administration on the naming location within the plaza. Due to the aforesated action, it is recommended that Resolution No. 2003-25265 which set the public hearing on the naming of the fountain in memory of Joseph Nevel be rescinded.

Agenda Item C6A
Date 9-10-03

NEW BUSINESS

4. DISCUSSION REGARDING PROPOSED AMENDMENTS TO THE EXISTING DEBARMENT AND LOBBYING ORDINANCES.

ACTION: Deferred at the request of Commissioner Jose Smith.

5. DISCUSSION REGARDING CHANGES TO THE MIAMI-DADE COUNTY'S LOBBYING ORDINANCE.

ACTION: In May 2003, the County Commission amended its lobbyist's ordinance. A brief discussion was held on these amendments to the Miami-Dade County ordinance defining the term "lobbyist", for purpose of assessing the need to amend the City of Miami Beach lobbyist laws. The County has enacted additional exemptions from the definition of "lobbyist". Commissioner Steinberg discussed the need to review these exemptions with existing City Code lobbyist restrictions. The City Attorney's Office will forward the amended ordinance to the City Commission for approval.

The City of Miami Beach lobbyist ordinance must be amended because it cannot be more lenient than the County's ordinance.

The County amendments which require amendments to the City's ordinance are as follows:

Adding to definition of lobbyists-

1. "Lobbyists" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities.
2. The term "Lobbyist" specifically excludes the following persons: attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a not-for-profit community based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and employees of a principal whose normal scope of employment does not include lobbying activities.
3. Registration of all lobbyists shall be required prior to January 15 of each year.
4. The fee for annual registration shall be four hundred and ninety dollars (\$490).

5. Any lobbyist who fails to file the required expenditure report by September 1st shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the Ethics Commission.
6. No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission or nonmonetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of: (1) an ordinance, resolution, action or decision of the County Commission; (2) any action, decision or recommendation of the County Manager or any County board or committee; or (3) any action decision or recommendation of County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee.

6. DISCUSSION REGARDING THE RENAMING OF THE FIRE ADMINISTRATION BUILDING AND/OR FIRE STATION NO. 2 IN MEMORIAL (TO HONOR) DR. LEO GROSSMAN.

ACTION: Representatives from Dr. Leo Grossman's family discussed with the Committee the naming of Fire Station No. 2 in memory of Dr. Grossman. The family representatives will visit Fire Station No. 2, and meet with the firefighters in an effort to obtain their support in the naming of the station and possibly proceeding in the March 2004 referendum with placing the item for voter approval.

7. DISCUSSION REGARDING ESTABLISHING A PILOT PROGRAM WITH ONBOARD MEDIA FOR A MAXIMUM OF TWELVE (12) MONTHS TO PRODUCE AND AIR A THIRTY (30) MINUTE SEGMENT OF "WELCOME TO MIAMI BEACH" IN PROMOTION OF THE CITY OF MIAMI BEACH AS A TOURIST DESTINATION AND QUALITY RESIDENTIAL COMMUNITY, ON "BEACHTV" (CHARTER COMMUNICATIONS GEOGRAPHIC TERRITORY), AT NO COST TO THE CITY; PROVIDING A LINK ON THE CITY'S WEBSITE, A LETTER OF SUPPORT FOR THE PROGRAMMING EFFORTS AND THE CITY'S COOPERATION AND CONCEPTUAL SUPPORT OF THE PROGRAM AND ITS PRODUCTION.

ACTION: The Committee was shown a presentation on the 12 month pilot program with Onboard Media to produce and air a thirty (30) minute segment of "Welcome to Miami Beach" in promotion of the City of Miami Beach as a tourist destination and quality residential community, on "BeachTV" at no cost to the City; providing a link on the City's website.

Commissioner Saul Gross made a motion to approve subject to satisfying the legal requirements on the City not endorsing the program and being able to cancel link to the City's website and the 30 minute free segment to the City, seconded by Commissioner Luis R. Garcia, Jr.

Sample disclaimer language will be provided by Onboard Media for the City's consideration.

JMG\MDB\lcd

T:\AGENDA\2003\sep1003\consent\Community Affairs Comm September 4 2003 report for September 10 2003.doc

**COMMUNITY AFFAIRS COMMITTEE MEETING
THURSDAY, SEPTEMBER 4, 2003 AT 2:00 P.M.
MAYOR'S CONFERENCE ROOM**

SIGN IN SHEET

NAME	ADDRESS	PHONE #	E-MAIL ADDRESS
Jane Nevef			
BERNICE MARTINEZ	900 WEST AVE 33139	447-2437	
FRANK KRUSZEWSKI	1800 Sunset Harbour Dr	655-8571	FRANKKRUSZ@SUNSET2003.COM
BOB KOSCIUSKO	Key West	295-8855	
Robert Egan	560 Alton Rd	305-673-0400	
M. W. W.	1681 Kandy Lane	305-861-9112	
Joe Hoffman	960 Alton	305-673-0400	Joe@onboard.com
Robt Rosenbaum	Onboard Media	305-673-0400	
Robert Meyers	Miami - Dede Ethics	305-579-2544	
Margarita Dean	MB		
Joe Fontana	5750 Collins Ave.	305-861-8054	
Margaret Bullard	CMB	673-7010	
Richard Skirberg	CMB	673-7103	
Saul Gross	CMB	673-7104	
Erica Shafir	CMB	6722	

Dolores Mejia 6834
Lorna Myia 6627
Donna Shaw 6596

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CITY OF MIAMI BEACH

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www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

**Subject: REPORT OF THE GENERAL OBLIGATION BOND OVERSIGHT
COMMITTEE MEETING OF AUGUST 4, 2003**

The G.O. Bond Oversight Committee met on August 4, 2003. At the meeting, the Committee considered the following issues.

The Committee reviewed and passed the minutes from the July 7, 2003 meeting.

PRESENTATION

The Administration informed the Committee that the General Obligation Bond Interest is reserved and is not recommended for expenditure. The Bond funds are invested, and the earned Interest is reserved for Arbitrage purposes. When the bonds are expended, the Arbitrage calculations are done by an outside consultant annually. The Interest is used to pay for any Arbitrage fees necessary. It can also be used as a last resort funding source for expenses within the original project scope, but only as approved by the City Commission. The Administration does not recommend releasing any of the Interest for use on the GO Bond-funded Project construction at this time.

CHANGE ORDERS

The Administration informed the Committee of change orders that had been approved since the last meeting.

RECOMMENDATION TO CITY COMMISSION

A presentation was made regarding the Basis of Design Report (BODR) for the Biscayne Pointe Neighborhood Improvement Project, which outlined the proposed improvements to be made in the neighborhood. Area residents commented on the proposed improvements. Discussion with the residents focused mainly on street lighting improvements and how the funds were allocated amongst the different areas within the neighborhood.

The Committee approved a motion recommending that the City Commission approve the BODR with the condition that lighting issues be addressed, as per the residents desire, instead of pavement issues.

Agenda Item

C6B

Date

9-10-03

PROJECT STATUS REPORT

The Administration informed the Committee that the rehabilitation of the existing building and the addition to Fire Station No. 2 is moving forward. The City issued a second Notice To Proceed to Jasco on June 9, 2003 after the completion of the permit for the complete scope of work. Jasco has begun mobilization and construction of the added area at the site. Currently, Jasco is on schedule for a substantial completion date of May 2004. The City is still in discussions with Jasco on Fire Station No. 2 on the Guaranteed Maximum Price which will be brought to the City Commission when a final price is agreed upon.

The Administration informed the Committee that during the July 2, 2003 Commission meeting, the Mayor and City Commission discussed at length the status of the Fire Station No. 4 Project; and subsequently unanimously passed a motion directing the City Manager and staff to follow the appropriate procedures to demolish the historic building. Documentation was being prepared to obtain approval from the Historic Preservation Board (HPB) on September 9, 2003 for the proposed modification to the design of new Fire Station and the demolition of the historic Fire Station No. 4 building. Depending on the outcome of that meeting, the City Commission would have to either ratify or over-rule the HPB's decision in either September or October. Demolition could be scheduled as soon as October 2003 and construction of the new building would likely begin by March 2004.

The Administration informed the Committee that the Normandy Isle Park and Pool project has a significant delay due to two major events caused by the Contractor. These issues are related to the pool deck and the pool slab construction. These issues are under review by the CIP Office, URS and the City's A/E consultant. The Pool deck was rejected by the City's Special Inspector for the project, due to the Contractor's failure to follow the contract documents. The Pool slab was poured without the required reinforcing steel inspection from the Special Inspector. In addition, the Contractor did not notify the Special Inspector of a need for inspection services until the concrete placement had already started. As a result, the Special Inspector was unable to perform adequate testing of the concrete. This action is the fault of the Contractor and should not result in additional cost to the City. Additional time will not be added to the Contractor's schedule and if the Contractor misses the completion date due to the issue, then the Contractor will incur liquidated damages. Staff will continue to monitor the Project and take corrective action as necessary.

INFORMATIONAL ITEMS

The Informational Items presented to the Committee, but not reviewed included: Changes in meeting dates for September and October, the announcement of a Special Joint Meeting of the Finance & Citywide Projects and G.O. Bond Oversight Committees, the calendar of Scheduled Community meetings, Development Agreement for Bay Road construction as passed by the City Commission and Corradino Additional Services Agreement as passed by the City Commission.

JMG/RCM/TH/KLM/ig

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

**Subject: REPORT OF THE NEIGHBORHOODS COMMITTEE MEETING HELD
ON JULY 28, 2003**

A meeting of the Neighborhoods Committee was held on July 28, 2003 at 2:00 P.M. in the City Manager's Large Conference Room. Commissioners in attendance: Matti Herrera Bower, Simon Cruz, and Luis R. Garcia Jr. City staff in attendance: Robert C. Middaugh, Assistant City Manager, Vivian P. Guzman, Director, Neighborhood Services Department, Jorge Gomez, Director, Planning Department, Reuben Caldwell, Planning Department, Tim Hemstreet, Director, Capital Improvement Projects, Joanna Revelo, Director, Housing and Community Development Division, Steve Cumbo, Housing and Community Development, Miguell DelCampillo, Housing Manager, Housing and Community Development. Others in attendance are listed in the attached sign-in sheet.

OLD BUSINESS

1. **Discussion regarding the revised guidelines for the City of Miami Beach Multi-Family Housing Rehabilitation Program.**

Item deferred to the next Neighborhoods Committee meeting.

2. **Referral to the Neighborhoods Committee – Relocation of water meters from rear easement to Right-of-Way.**

Mr. Tim Hemstreet, Director, CIP, made the presentation on the relocation of the water meters. Mr. Hemstreet suggested that instead of having major construction in the back of residents' homes, the new water mains be built to connect the new water meters in the right-of-way. This approach greatly reduces the direct impact of construction to the individual homeowners and it also would allow the vast majority of existing private improvements within the easements to remain. Additionally, the water meter relocation will affect approximately 900 homes across the City located mostly in the Normandy Isle Neighborhood. The other affected neighborhoods are Nautilus and La Gorce, as well as central Bayshore primarily along Flamingo Drive.

Furthermore, Mr. Hemstreet stated that the City created a Master Water Plan in the mid 1990's which provided information on all the aging water mains in the City and the rationale for why they need to be replaced. The three main reasons for replacing the water mains are as follows:

Agenda Item C6C
Date 9-10-03

- 1) if they are undersize for fire flow reasons
- 2) if they are made of inappropriate material
- 3) if there is tuberculation inside the mains

It is proposed that the water meters be placed in the right-of-way so that no construction work is conducted in the properties' rear easements. The proposed water meters will be on the sidewalk or in the swale. The City's proposal is to use "trenchless" technology to connect the water service from the proposed location of the new meter, under the property, and to the location of the utility easement. This will allow for the least possible impact to the private property. Mr. Hemstreet shared a video with the Committee which details how "trenchless" technology works and how it will be the best tool to use in order to avoid major excavations in the residential neighborhoods.

In order to communicate the proposed plan to the residents, a package that includes an explanation of the plan and a drawing of each property with specifications on the underground excavation to the water main will be sent to each affected household via first class mail. Additionally, two community meetings will be held in each area, and they will go door-to-door to those residents that are unresponsive. Eventually, a plan will be developed to secure permission from the homeowners.

No action was taken by the Neighborhoods Committee.

3. Review and discussion regarding an amendment to the City Code concerning the distribution of handbills.

Mr. Robert C. Middaugh, Assistant City Manager, provided the status report on the Administration's ongoing work to resolve the issue of excessive litter created by flyers. Mr. Middaugh stated that in accordance with the Committee's previous recommendations, he met with the business/night club industry. The suggestion from a specific club was to find a way to make businesses, designated as a high use venue, maintain the sidewalks within a specific parameter clean and free of flyers and debris. The idea is if you attract many people then you have a higher level of responsibility to keep the sidewalk clean. This may require an adjustment to the occupational license to recognize the volume.

The Committee referred this item back to the Administration for further discussion and consideration.

NEW BUSINESS

4. Presentation by a Group of Concerned Residents Advocating Better Green Space Management in the City.

Item deferred to the next Neighborhoods Committee meeting.

5. Referral to the Neighborhoods Committee – Review the City’s and MCDC’s policy regarding acquiring buildings in better shape and provide more affordable housing.

Item deferred to the next Neighborhoods Committee meeting.

6. Referral to the Neighborhoods Committee – Presentation and Discussion of the Neighborhood Conservation Overlay District Concept.

Mr. Reuben Caldwell, Senior Planner, Planning Department, presented the item to the Committee and discussed the idea of bridging the gap between zoning and historic preservation in the areas on the south side of Lincoln Road and the west side of Bay Road best known as the MIMo constructions. This type of designation will allow more flexibility in the maintenance and enhancements of existing buildings in the designated areas.

The representatives from the Lincoln West Homeowners’ Association said that this project was developed to preserve the existing character of the neighborhood while making it possible to construct and restore the buildings without the strict specifications of historic preservation. This gives existing buildings the incentive to improve the area and build upon it.

The Committee unanimously passed a motion to approve the concept of a Neighborhood Conservation Overlay District as presented.

7. Discussion and review of the Community Development 2003-2007 Consolidated Plan.

Ms. Joanna Revelo, Director, Housing and Community Development, distributed copies of the Five Year Consolidated Plan Executive Summary. Ms. Revelo stated that the Consolidated Plan is a requirement of HUD for all entitlement communities. It is a five-year plan designed to outline HUD goals and objectives for the Community Development Block Grant, HOME (affordable housing), and the Emergency Shelter Grant. The idea behind receiving these funds is providing decent housing, creating suitable living environments, and expanding economic opportunities. Additionally, part of the adoption of the five-year plan involves citizen participation. There have been two public hearings, two public workshops, and input from community-based organizations, other local partner agencies, and the Housing Authority. Ms. Revelo further stated that there is going to be a newer emphasis in this five-year plan as they plan to revitalize the North Beach area. 47% of CDBG funds are going to be spent in the North Beach area, 14% in the South Beach area, and 39% in citywide programs.

Vice Mayor Bower inquired into the overall response from the public during the public comment period for the Consolidated Plan. Ms. Revelo responded that public comments were generally complimentary of the five-year plan.

Mr. David Kelsey, South Beach Hotel and Restaurant Association, suggested that economic development be included in the plan specifically training for the hotel/restaurant employees. Ms. Revelo responded that although the economic development was one of the high priorities, they had not received as many proposals as they would like to be able to develop those types of programs. Because these grant funds are coming from the Department of Housing and Urban Development, their focus is on affordable housing.

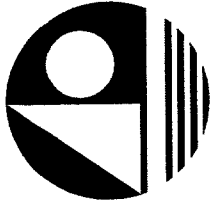
Vice Mayor Bower requested that a report of affordable housing in Miami Beach numbers be developed and given to the Committee for review. Steven Kelley, Consultant, Florida Planning Group, stated that about 9,000 units are affordable housing units. The Housing Authority has a very small percentage of the units. Mr. Kelley believes that the majority of the units are funded by the state. Vice Mayor Bower also requested a breakdown from the Housing Authority of how many units of Section 8 housing are located in Miami Beach.

Commissioner Cruz stated that the City has undergone an amazing transformation in the past ten years. The main issue is how to approach the housing stock. It was determined that the cost to refurbish the units was slightly higher. The skyrocketing cost of housing is evident because it is a younger, more affluent community and many units are being taken off the traditional market. We can anticipate that it is only going to get more expensive to buy property in Miami Beach, rehab property, and to put property back into the rental pool. Our aging population will not be able to afford that and subsequently we will have to alter our own expectations of what we consider affordable housing in Miami Beach. Commissioner Cruz stated that Roberto DaTorre, Miami Beach Community Development Corporation (MBCDC), and his staff have been doing an admirable job of bringing housing stock to the elderly but the high cost has been questioned. Furthermore, Commissioner Cruz believes that we have to assume that we are a more costly area to rehab than anywhere else is and that needs to be coming forth as the different indicators are identified. The Commission needs to have some kind of comfort level when recognizing that they cannot offer affordable housing like everyone else because the housing stock and any rehabilitation as well as the permitting process is more expensive. Commissioner Cruz thinks it is important for these issues to be addressed in the Consolidated Plan so that when HUD, the residents or even the Commission question why we are able to bring forth fewer units or fewer services, there is an explanation.

The Committee unanimously passed a motion to include Commissioner Cruz's comments on affordable housing and move the Consolidated Plan to the full City Commission on July 30, 2003.

Attachments

JMG/RCM/VPS



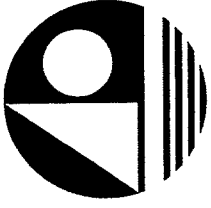
**CITY OF MIAMI BEACH
NEIGHBORHOODS COMMITTEE**

Monday, July 28, 2003

SIGN-IN SHEET

PLEASE PRINT LEGIBLY

NAME	ORGANIZATION	PHONE NO.	FAX NO.
AC Weinstein	Surfpost		
STEVEN KELLY	Florida Planning Group	(904) 871-8281	242 - 9688
JOANNA BEVELO	CMB - HCD - NSD	6175	31073-7772
Roswell Del Campillo	CMB - HCD - USD	6187	673-7772
Steven K. Cumbo	CMB - NSD - HCD	6168	7772
REUBEN CALDWELL	CMB - Planning	6467	7559
Tim Hemstreet	CMB - CIP	7071	7073
Charlie Carreno	HHS	305329292	305329292 534887
RODIE SINGER	CMB/CIP	7071	7073
Paul Kennedy	MBCDC	305-538-0090	305-538-2863



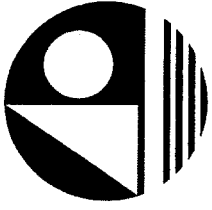
CITY OF MIAMI BEACH
NEIGHBORHOODS COMMITTEE

Monday, July 28, 2003

SIGN-IN SHEET

PLEASE PRINT LEGIBLY

NAME	ORGANIZATION	PHONE NO.	FAX NO.
Rosario Dato	MSOC	305 5380090	305 5382863
Vivian Guzman	CMB		
Fred Beckmann	CMB	305-673-7080	
KATIA HIRSH	" PLANNING	6302	
Marty Evans	CBA Group	(305) 604-8923	
David Kelsa	DBW/Clark. Name	873-1440	
Kathryn Hayes	MBHA	305-756-6544	x3020
VMO/Edon	MC	706-316-8899	305-759-2855
Simon Cruz	CMB	x7102	
AID Cruz			



**CITY OF MIAMI BEACH
NEIGHBORHOODS COMMITTEE**
Monday, July 28, 2003

SIGN-IN SHEET

PLEASE PRINT LEGIBLY

NAME	ORGANIZATION	PHONE NO.	FAX NO.
Mattie F. Bower			
Luis E. Garcia Jr.	CMB	305-673-7105	
Margarita Alcon	CMB	6274	
Angela Marcos	UNION WEST KIDZ-KSD	305-674-8945	
DAVID FRANK BEBER	Orlando Arts Center	6720099	

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**CITY OF MIAMI BEACH
COMMISSION AGENDA ITEM SUMMARY**



Condensed Title:

A resolution of the Mayor and City Commission of the City Of Miami Beach, Florida, authorizing the issuance of Request For Qualifications #68-02/03 for Engineering, Urban Design, and Landscape Architecture for Planning, Design, Bid and Award and Construction Administration services for the City Center Right Of Way Infrastructure Improvement Project.

Issue:

Shall the City of Miami Beach Commission authorize the Request For Qualifications for the City Center Right Of Way Infrastructure Improvement Project?

Item Summary/Recommendation:

The City Center Right of Way (ROW) Improvement Project is a \$16 million infrastructure project which includes the restoration and enhancement of an urban (residential and commercial) neighborhood's hardscape, including roadway, sidewalk, curb and gutter, landscape, streetscape irrigation, lighting, potable water, and storm drainage infrastructure as needed. This project will be funded through City Center Tax Increment Funds (TIF). The estimated total budget for the project is \$16,069,350. The estimated construction budget for the project is \$12,173,750. This includes \$6,577,500 for Streetscape; \$4,296,250 for Stormwater Improvements and \$1,300,000 for Water Improvements.

The purpose of issuing a Request for Qualifications is to obtain qualifications from professional firms with the capability and experience to provide professional engineering, planning, urban design, and landscape architecture services for planning, design, bid and award, and construction administration of urban streetscape improvements in the City Center Neighborhood in Miami Beach. After negotiations with the selected firm are successful, the CIP Office will present both a contract and a price for the requested services before the City Commission.

Advisory Board Recommendation:

N/A

Financial Information:

Amount to be expended:

Source of Funds:



Finance Dept.

	Amount	Account	Approved
1	\$		
2			
3			
4			
Total	\$		

City Clerk's Office Legislative Tracking:

Stacy Lotspeich, Senior Capital Projects Planner, CIP Office

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM

C7A

DATE

9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE ISSUANCE OF REQUEST FOR QUALIFICATIONS (RFQ) NO. 68-02/03 FOR ENGINEERING, URBAN DESIGN, AND LANDSCAPE ARCHITECTURE FOR PLANNING, DESIGN, BID AND AWARD AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE CITY CENTER RIGHT OF WAY INFRASTRUCTURE IMPROVEMENT PROJECT.**

ADMINISTRATIVE RECOMMENDATION

Adopt the Resolution.

ANALYSIS

The City Center Right of Way (ROW) Infrastructure Improvement Project is a \$16 million infrastructure project which includes the restoration and enhancement of an urban (residential and commercial) neighborhood's hardscape, including roadway, sidewalk, curb and gutter, landscape, streetscape irrigation, lighting, potable water, and storm drainage infrastructure as needed. This project is funded through City Center Tax Increment Funds.

The purpose of issuing a Request for Qualifications is to obtain qualifications from professional firms with the capability and experience to provide professional engineering, urban design, and landscape architecture services for planning, design, bid and award, and construction administration of urban streetscape improvements in the City Center Neighborhood in Miami Beach.

The estimated budget for the project is \$16,069,350. The estimated construction budget for the project is \$12,173,750. This estimated construction total includes \$6,577,500 for Streetscape; \$4,296,250 for Stormwater Improvements; and \$1,300,000 for Water Improvements as detailed below:

STREETSCAPE IMPROVEMENTS \$6,577,500 (construction dollars)

North to South Streets

Washington Avenue (16th to Dade Blvd)
James Avenue (Lincoln Road to 19th Street)
Park Avenue (19th to 20th Streets)
Liberty Avenue (19th to 21st Streets)

Meridian Avenue (Lincoln Road to 17th Street)
Jefferson Avenue (Lincoln Road to 17th Street)
Michigan Avenue (Lincoln Road to 17th Street)
Lenox Avenue (Lincoln Road to 17th Street)
Convention Center Way (17th Street to Dade Blvd)
Euclid Avenue (Lincoln Lane North to 17th Street)
Drexel Avenue (Lincoln Road to 17th Street)

East to West Streets

16th Street (Washington Ave to Collins Ave)
Lincoln Road (Median Only from Washington Ave to Collins Ave)
17th Street (Washington Ave to Collins Ave)
18th Street (Washington Ave to Collins Ave)
19th Street (Washington Ave to Collins Ave)
20th Street (Washington Ave to Collins Ave)
21st Street (Washington Ave to Collins Ave)
22nd Street (Dade Blvd to Park Ave)
23rd Street (Dade Blvd to Collins Ave) (23rd County Road)
Lincoln Lane (Drexel Ave to Alton Road)
17th Street (Washington Ave to Alton Road)
Lincoln Lane North (Euclid Ave to Meridian Ave)

STORMWATER IMPROVEMENTS \$4,296,250 (construction dollars)

Priority Basin No. 23: Boundaries:

Lincoln Road (South), Lummus Park (East), Collins Canal (North) and Convention Center Drive (West).

WATER IMPROVEMENTS \$1,300,000 (construction dollars)

Replacement of Discretionary Waterlines with 8-inch diameter pipes

Washington Avenue within project area
20th Street within project area
21st Street within project area
19th Street (Meridian Ave to Jefferson Ave)
Lenox Ave (16th Street to Lincoln Lane and Lincoln Lane North to 17th Street)
Alley b/w Lenox Ave and Alton Road (16th Street to Lincoln Lane and Lincoln Lane North to 17th Street)
Alley b/w Lenox Ave and Alton Road (17th Street to Dade Blvd) - Palm view Sub neighborhood
Michigan Ave (16th Street to Lincoln Lane)
Lincoln Lane North (Pennsylvania Ave to Michigan Ave)
Meridian Ave (17th to 19th Streets)

The budget also includes a construction contingency (\$1,217,375) as well as development

and soft costs (\$2,678,225), which consists of Planning, Design, Bid & Award, Construction Administration, Program Management, and City Construction Management..

ESTIMATED TOTAL PROJECT BUDGET

A/E/Development/Management	\$ 2,678,225
Construction Budget	\$12,173,750
Construction Contingency	\$ 1,217,375
ESTIMATED PROJECT TOTAL	\$16,069, 350

ESTIMATED CONSTRUCTION BUDGET

Streetscape	\$ 2,678,225
Drainage	\$ 4,296,250
Waterlines	\$ 1,300,000
ESTIMATED CONSTRUCTION TOTAL	\$12,173,750

RFQ TIMETABLE

The anticipated schedule for this RFQ and contract approval is as follows:

RFQ to be issued	September 16, 2003
Pre-Qualification Conference	October 2, 2003
Deadline for receipt of questions	October 14, 2003
Deadline for receipt of responses	October 24, 2003
Evaluation committee meeting	Week of November 10 th 2003
Commission approval/authorization of negotiations	December 10 th , 2003
Contract negotiations	Week of January 5 th 2004
Projected award date	Week of February 2 nd , 2004
Projected contract start date	Week of February 23 rd , 2004

The selected Consultant shall perform a variety of forensic and community planning tasks that will culminate in the creation of a Basis of Design Report (BODR) for the project area. The BODR serves as the definitive Master Plan for all proposed improvements.

Improvements in the BODR may include restoration and enhancement to the function and aesthetics of the following:

- Upgrading the stormwater drainage collection and disposal system to meet City Stormwater Master Plan recommendations
- Repair or replacement of existing water mains to meet City Water Master Plan recommendations
- Street resurfacing and new pavement markings.
- Swale restoration, and/or curb and gutter restoration or upgrades.
- Repair, extension, or widening of sidewalks and crossing ramps to provide continuous, ADA-Title III compatible separated pedestrian ways.
- Installation of new pedestrian-scale street lighting and/or upgrade of existing lighting to correct deficiencies where needed.
- Providing enhanced landscaping, development of additional areas for planting opportunities, and new / enhanced irrigation to support such plantings within the street right-of-way, as consistent with community and City staff preferences.
- Improving of street-ends with lighting, landscaping, fencing, and/or parking, where appropriate.
- Physical and/or operational improvements to local streets for the purposes of beautification, traffic calming and increasing alternative transportation routes including pedestrian and non-motorized vehicles.

The work effort will require that all aboveground improvements will be coordinated with existing and proposed aboveground and below underground infrastructure improvements, which may include the following tasks:

- Limited coordination with other entities, including but not limited to, Florida Power and Light Company, BellSouth, Charter Communications and their vendors, for the relocation of above ground utilities to below ground locations within the ROW. This applies specifically to Special Assessment District petitions filed by residents and accepted by the City Commission.
- Coordination with Private Developments that shall implement City approved Right of Way improvements

The underground water, sewer and drainage infrastructure improvements are generally identified in: the City of Miami Beach Comprehensive Stormwater Management Program Master Plan, (March 1997), the City of Miami Beach Water System Master Plan, (November, 1994), and the Citywide Sanitary Sewer Infiltration and Inflow Mitigation

Program, and in subsequent amendments to the plans and decisions of the City's Public Works Department. The work includes surveying and obtaining permits from all governmental agencies having jurisdiction in Miami Beach.

CONSULTANT TASKS

The selected Consultant will be tasked with the following duties and responsibilities:

- Task 1 – Planning Services
- Task 2 – Design Services
- Task 3 – Bid and Award Services
- Task 4 – Construction Management Services
- Task 5 – Additional Services
- Task 6 – Reimbursable Services

Task 1 – Planning Services:

The purpose of this Task is to establish a consensus design concept for the referenced neighborhood that meets the needs of the community and stays within established schedule and cost parameters. Note that this task will utilize and expand upon the concepts presented in existing master plans for presentation to affected residents in a series of Community Design Workshops. The selected firm will conduct a total of two Community Design Workshops.

Based on the results of the Community Design Workshops, a draft Basis of Design Report shall be developed for presentation and approval by all applicable design review committees and permitting agencies. A final Basis of Design Report shall then be prepared summarizing the accepted design concept, budget level cost estimate, implementation schedule and other issues deemed important to the implementation of the project. The final Basis of Design Report will be presented to the City Commission for enactment through Resolution and will be available to the public thereafter.

Task 2 – Design Services:

The purpose of this Task is to establish requirements for the preparation of contract documents for the Project. Note that the selected firm will be required to perform a variety of forensic tasks to verify, to the extent practicable, existing conditions and the accuracy of base maps to be used for development of the contract drawings. These tasks include, but may not be limited to, surveying, utility verification, and listing encroachments in the Right of Way using formats established for the City's Right of Way Infrastructure Improvement Program. In addition, the selected firm will follow City standards for the preparation of contract documents, inclusive of drawings, specifications and front-end documents and cost estimates.

Presentation formats for Review Submittal will be prepared at the 30%, 60%, 90% and 100% design completion stages. Contract documents will be subject to constructability and value engineering reviews to be performed by others. The selected firm will attend and

participate in community design review meetings to review the design progress and concept at different progress levels during the design. The selected firm will also be responsible for reviewing and receiving approvals of its contract documents from all jurisdictional permitting agencies and boards prior to finalization. To facilitate the implementation of a Public Information Program, the selected firm will provide electronic files of all project documents, as directed by the City. City in-house Departments shall be required to respond, in writing, to all review comments. Presentation formats will be as directed by the City.

Note that the selected firm shall establish and maintain an in house Quality Assurance / Quality Control (QA/QC) program designed to verify and ensure the quality, clarity, completeness, constructability and bid potential of its contract documents.

Task 3 – Bid and Award Services:

The selected firm shall assist City in bidding and award of the contract. Such assistance shall include facilitating reviews of its contract documents with applicable Procurement, Risk Management and Legal Department representatives. In addition, the selected firm shall furnish camera ready contract documents for reproduction and distribution by the City, attend pre-bid conferences, assist with the preparation of necessary addenda, attend the bid opening and assist with the bid evaluation and recommendation of award to the City. The selected firm shall provide “As-Bid” documents for use during construction.

Task 4 – Construction Management Services:

The selected firm shall perform a variety of tasks associated with the administration of the construction contract and construction management of the project. These shall include attendance at the pre-construction conference, attendance at weekly construction meetings, responding to Contractor requests for information / clarification, responding and evaluating Contractor requests for change orders / contract amendments, review of shop drawings, review of record drawings, review and processing of contractor applications for payment, monitor construction progress, resident project representation, project closeout reviews including substantial and final punch list development and project certification. The City / Program Manager will provide day-to-day construction administration duties.

Task 5 – Additional Services:

No additional services are envisioned at this time. However, if such services are required during the performance of the Work, they will be requested by the City and negotiated in accordance with contract requirements.

Task 6 – Reimbursable Services:

The City may reimburse additional expenses such as reproduction costs, survey, geotechnical work and underground utility verification costs.

It is anticipated that a Firm whose specialty and primary business is in the practice of civil engineering will head the selected Project Design Team, which should also include an urban designer/planner and a landscape architect as subconsultants, all with extensive experience in design upgrade and urban retrofitting, including environments with new

streetscape, drainage and, water/sewer, and utility improvements. Interested teams must demonstrate streetscape and utility design and construction administration expertise, based on the successful completion of a number of projects of similar substantial size and complexity for other governmental and/or private entities.

EVALUATION PROCESS

The procedure for response evaluation and selection is as follows:

- Request for Qualifications issued.
- Receipt of responses.
- Opening and listing of all responses received.
- An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each response in accordance with the requirements of this RFQ. If further information is desired, respondents may be requested to make additional written submissions or oral presentations to the Evaluation Committee.

The Evaluation Committee will recommend to the City Manager the response(s) which the Evaluation Committee deems to be in the best interest of the City by using the following criteria for selection:

- Firm's Qualifications and Experience with renovating existing, urban Right of Ways (ROWs) including coordinating drainage, water, and streetscape work;
- Project Manager's Experience renovating existing urban Right of Ways, community presentations, and urban planning;
- References Provided by Prior Project Owners;
- Experience and Qualifications of the Project Team with renovating existing, urban Right of Ways (ROWs) coordinating drainage, water, and streetscape work
- Methodology, Approach and Understanding of Tasks 1-6;
- Volume of work previously awarded to each firm by the agency, with the object; of effecting an equitable distribution of contracts among qualified firms;
- The City may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations.
- After considering the recommendation(s) of the Evaluation Committee, the City

Manager shall recommend to the City Commission the response or responses acceptance of which the City Manager deems to be in the best interest of the City.

- The City Commission shall consider the City Manager's recommendation(s) in light of the recommendation(s) and evaluation of the Evaluation Committee and, if appropriate, approve the City Manager's recommendation(s). The City Commission may reject City Manager's recommendation(s) and select another response or responses. In any case, City Commission shall select the response or responses acceptance of which the City Commission deems to be in the best interest of the City. The City Commission may also reject all proposals.
- Negotiations between the selected respondent and the City Manager take place to arrive at a contract. If the City Commission has so directed, the City Manager may proceed to negotiate a contract with a respondent other than the top ranked respondent if the negotiations with the top ranked respondent fail to produce a mutually acceptable contract within a reasonable period of time.
- A proposed contract or contracts are presented to the City Commission for approval, modification and approval, or rejection.
- If and when a contract or contracts acceptable to the respective parties is approved by the City Commission, the Mayor and City Clerk sign the contract(s) after the selected respondent(s) has (or have) done so.

The Administration recommends that the Mayor and the City Commission of Miami Beach, Florida approve and authorize the issuance of Request for Qualifications (RFQ) No. 68-02/03 for engineering, planning, urban design and landscape architecture services for planning, design, bid and award, and construction administration of streetscape improvements for the City Center Right of Way Infrastructure Improvement Project.

JMG/RM/TE/RS/sel

T:\GENERA\2003\sep1003\regular\RFQ City Center ROW Project\City Center ROW AE RFQ Memo .doc

RESOLUTION NO. _____

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION
OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING
THE ISSUANCE OF REQUEST FOR QUALIFICATIONS
(RFQ) NO. 68-02/03 FOR ENGINEERING, URBAN DESIGN,
AND LANDSCAPE ARCHITECTURE FOR PLANNING,
DESIGN, BID AND AWARD AND CONSTRUCTION
ADMINISTRATION SERVICES FOR THE CITY CENTER
RIGHT OF WAY INFRASTRUCTURE IMPROVEMENT
PROJECT**

WHEREAS, the City of Miami Beach has developed various capital improvement projects to improve the quality of life of its residents in each of the City's thirteen Neighborhoods; and

WHEREAS, City Center is one of the City's thirteen Neighborhoods, which encompasses the area bounded on the East by the Atlantic Ocean, bounded on the North by Dade Boulevard and 23rd Street, bounded on the South by Lincoln Lane South from Alton Road until Washington Avenue and then bounded on the South from 16th Street to the Atlantic Ocean, and bounded on the West by Alton Road until the north side of 17th Street and then bounded on the West by the intersection of 17th Street and Dade Boulevard, as more particularly described in Exhibit "A", the City Center Right of Way (ROW) Geographic Area; and

WHEREAS, the City Center ROW Infrastructure Project ("the Project") is a \$16 million infrastructure project which may include, but is not limited to, the enhancement of roadways, drainage, landscaping, sidewalks and streetscapes, irrigation, water and sewer, stormwater, electrical, street lighting, street furniture, signage, as well as bicycle and pedestrian transportation routes; and

WHEREAS, the scope of services for the improvements will take into consideration previously authorized and currently endorsed City of Miami Beach planning level documents including, but not limited to, studies or reports encompassing necessary stormwater and waterline upgrades, the City Center RDA Master plan, enhancements in 17th Street/Convention Center Area, Collins Park Cultural Area, Collins Canal Walk, Atlantic Corridor Alternative Transportation Plan and other qualified decisions of the City of Miami Beach Public Works, Parks and Recreation, Planning, Parking, Building, Fire and Police Departments; and

WHEREAS, the purpose of issuing a Request for Qualifications is to obtain qualifications from professorial firms with the capability and experience to provide professional planning, urban design, engineering and landscape architecture services for the planning, design, bid and award, construction administration of the Project; and

WHEREAS, the anticipated schedule for the RFQ and contract approval is as

follows: RFQ to be issued: September 16, 2003; Pre-Qualification Conference: October 2, 2003; Deadline for receipt of questions: October 14, 2003; Deadline for receipt of responses: October 24, 2003; Evaluation committee meeting: Week of November 10th 2003; Commission approval/authorization of negotiations: December 10th, 2003; Contract negotiations: Week of January 5th 2004; Projected award date: Week of February 2nd, 2004; Projected contract start date: Week of February 23rd, 2004; and

WHEREAS, the City has contracted the services of Hazen and Sawyer, P.E. to function as Program Manager ("the Program Manager"), and act as the City's agent with regard to all aspects of this scope of services, including to serve as the focal point of contact with the selected firm; and

WHEREAS, the City will retain contractual agreement responsibilities with the selected firm; and

WHEREAS, the successful firm will be tasked with the following duties and responsibilities: Task 1—Planning Services; Task 2—Design Services; Task 3—Bid and Ward Services; Task 4—Construction Management Services; and

WHEREAS, the procedure for the response and evaluation and selection are fully described in the Request for Qualifications (RFQ) No. 68-02/03; and

WHEREAS, the Administration recommends the issuance of RFQ No. 68-02/03.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission of Miami Beach, Florida authorize the issuance of a Request For Qualifications No. 68-02/03 for urban design, engineering, and landscape architecture for planning, design, bid award and construction administration services for the City Center Right Of Way Infrastructure Improvement Project.

PASSED, ADOPTED AND APPROVED this 10th day of September, 2003.

ATTEST:

CITY CLERK

MAYOR

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney



Date

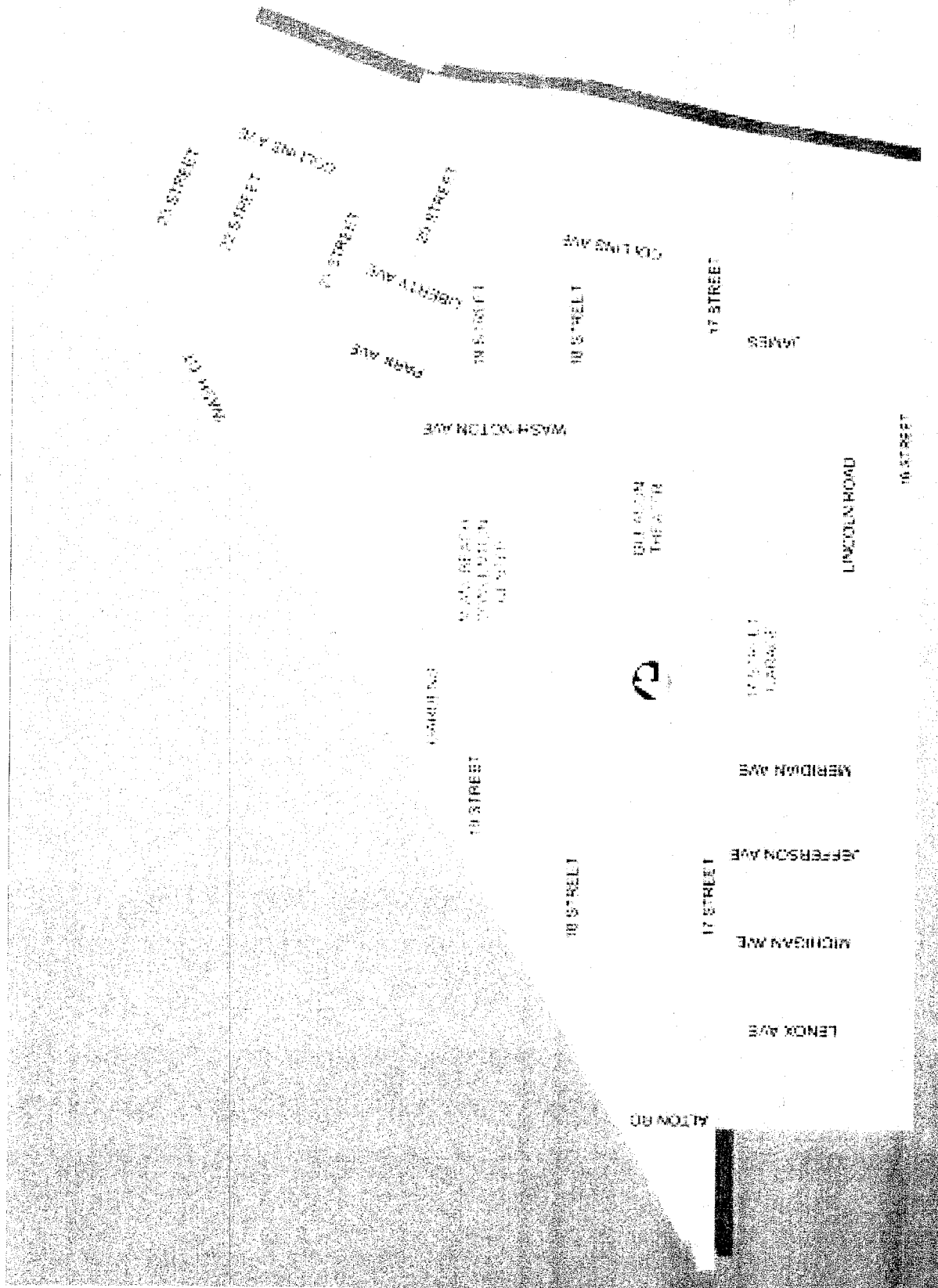


Exhibit A: CITY CENTER NEIGHBORHOOD

(RFQ) NO. 68-02/03
SEPTEMBER 10, 2003



Exhibit A: CITY CENTER NEIGHBORHOOD

(RFQ) NO. 68-02/03
SEPTEMBER 10, 2003

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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A Resolution Approving Additional Services for rear easement waterline relocation design for Tetra Tech WHS, A/E Consultant for the Normandy Isle Right Of Way Improvement Project; and further appropriating an amount not to exceed \$50,529, from Series 2000 Water And Sewer Bond Funds.

Issue:

Shall the City Commission appropriate funds in an amount not to exceed \$50,529 for additional services for the relocation of rear easement waterlines in the Normandy Isle Neighborhood?

Item Summary/Recommendation:

Approximately 450 private homes in the Normandy Isle Neighborhood receive water service from waterlines located in rear easements or access alleys behind the homes. This amendment provides additional services for Tetra Tech WHS (d/b/a Williams, Hatfield & Stoner, Inc.) to implement the necessary design, permitting and bid and award services to facilitate the placement and reconnection of water meters to locations in sidewalks in front of homes. The negotiated fees for these services, \$51,894, have been offset by a credit of \$1,365 for changes in the scope of water main replacement, for a net increase in fees of \$50,529.

Rear lot line easements for water lines have acquired major hardscape and landscape encroachments from adjacent private property owners. This situation obscures the water meters and waterlines, impeding City staff from reading the meters and providing service for the lines. Removing the encroachments, which include structures, to replace the deteriorated waterlines is cost prohibitive. Therefore, it is necessary to abandon the water infrastructure located within the rear easement, relocate water meters to the ROW, and install new water service lines under private property from the relocated meter box to a connection at the abandoned meter box in the rear of the property. It is anticipated that the majority of work with the exception of meter reconnection will be implemented via a trenchless technology.

The additional services provided by this Amendment No. 1 will be in tandem with the CIP Office's Community Notification plan in the affected area, which is outlined in the CIP Waterline Relocation Policy presented to the Neighborhoods Committee on July 28, 2003. Upon approval by the City Commission of Amendment No. 1, the design phase of this relocation effort will commence.

Advisory Board Recommendation:

Financial Information:

Source of Funds:	Amount		Account	Approved
	1	\$50,529	Series 2000 Water & Sewer	
	2			
	3			
	4			
	Total			



Finance Dept.

City Clerk's Office Legislative Tracking:

Joyce Meyers, Planning Department; Stacy Lotspeich, CIP Office

Sign-Offs:

Department Director	Assistant City Manager	City Manager

AGENDA ITEM C7B

DATE 09-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING ADDITIONAL DESIGN SERVICES; FOR REAR EASEMENT WATERLINE RELOCATION EFFORTS, AS AMENDMENT NO. # 1, TO THE SCOPE OF SERVICES OF THE AGREEMENT, DATED JULY 18, 2001, WITH TETRA TECH WHS, FORMERLY KNOWN AS WILLIAMS, HATFIELD AND STONER, A/E CONSULTANT FOR THE NORMANDY ISLE RIGHT OF WAY (ROW) INFRASTRUCTURE IMPROVEMENT PROJECT AND FURTHER APPROPRIATING AN AMOUNT NOT TO EXCEED \$50,529, FROM SERIES 2000 WATER AND SEWER BOND FUNDS FOR SAID SERVICES, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A," THE FEE DETAIL, EXHIBIT "B," WATERLINE RELOCATION POLICY AND EXHIBIT "C," THE GEOGRAPHIC AREA OF SAID ADDITIONAL SERVICES.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

450 private homes in the Normandy Isle Neighborhood receive water service from waterlines located in rear ROW easements or access alleys behind the homes. This amendment provides additional services for Tetra Tech WHS (d/b/a Williams, Hatfield & Stoner, Inc.), to implement the necessary design, permitting and bid and award services to facilitate the placement and reconnection of water meters to locations in sidewalks in front of homes.

The additional services are required to complement the design efforts for the entire neighborhood. Rear easements alleys in many residential neighborhoods have acquired major hardscape and landscape encroachments from adjacent private property owners. This situation obscures the water meters and waterlines, impeding City staff from reading the meters and providing service for the lines. Removing the encroachments, which include structures, to replace the deteriorated waterlines is cost prohibitive.

Therefore, it is necessary to abandon the water infrastructure located within the rear easement, relocate water meters to the ROW, and install new water service lines under private property from the relocated meter box to a connection at the abandoned meter box in the rear of the property. It is anticipated that the majority of work with the exception of meter reconnection will be implemented via a trenchless technology.

The additional services provided by this Amendment No. 1 will be in tandem with the CIP Office's Community Notification plan in the affected area, which is outlined in the CIP Waterline Relocation Policy presented to the Neighborhoods Committee on July 28, 2003. Upon approval by the City Commission of Amendment No. 1, the design phase of this relocation effort will commence. The Consultant provided a man-hour projection and fee estimate for the contemplated Additional Services. A negotiation regarding these fee estimates was led on behalf of the City by James Pappas, Pappas and Associates. The services and associated expenses were developed using the ROW Program's accepted program cost model. The negotiated fees for these services, \$51,894, have been offset by a credit of \$1,365 for changes in the scope of water main replacement, for a net increase in fees of \$50,529. The agreed upon fees and approval letter from Pappas are attached as Exhibit "A". A map showing the Project boundary is attached as Exhibit "C".

The Administration recommends approving additional design services, for rear easement waterline relocation efforts, as Amendment No. 1, to the Scope Of Services of the Agreement, dated September 5, 2001, with Tetra Tech, A/E Consultant for the Normandy Isle Right Of Way (Row) Infrastructure Improvement Project; and further appropriating an amount not to exceed \$50,529, from Series 2000 Water And Sewer Bond funds for said services, as more particularly described in Exhibit "A," the fee detail, Exhibit "B," Waterline Relocation Policy and Exhibit "C," the geographic area of said additional services.

JMG/RM/TH/RS/sel

T:\AGENDA\2003\sep1003\consent\Normandy Isles-SUD Amend No 1\Norm Isles Amend No 1 MEMO.doc

EXHIBIT A: FEE DETAIL
TETRA TECH WHS ADDITIONAL SERVICES--NORMANDY ISLE

TASK DESCRIPTION	PROJECT DIRECTOR	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	DESIGNER	STAFF ENGINEER	CLERICAL	TOTAL HOURS 1	TOTAL COST
PROJECT COORDINATION	-	-	\$8.00	\$8.00	\$8.00	\$8.00	-	\$32.00	\$2,698
LOTS INSPECTIONS	-	-	-	\$75.00	-	\$75.00	-	\$150.00	\$11,925
CADD SKETCHES	-	-	-	\$75.00	-	\$75.00	-	\$150.00	\$11,925
MODIFY CADD SKETCHES (10% of 450)	-	-	-	\$80.00	-	-	-	\$80.00	\$7,049
COORDINATION W/CITY--MAIL OU	-	-	-	-	\$247.50	-	-	\$247.50	\$18,298
HOURLY RATES	-	-	\$104.31	\$88.11	\$73.93	\$70.89	-		\$51,894

EXHIBIT A: FEE DETAIL

Environmental Engineering
Program and Project Management
Infrastructure Security Analysis

Offices in:
Hollywood, FL 304-340-7960
Aurora, IL 630-851-4610

PAPPAS AND ASSOCIATES
Engineering Management Consultants
1115 Dear Run Drive
Winter Springs, FL 32708-4137
Phone: 407-699-8111
Fax: 407-699-2154
thepappasgroup@cfl.rr.com

James M. Pappas, P. E.
President

Karen S. Pappas
Director of Finance



November 18, 2002

Sent Via FAX and U.S. Mails

Mr. Tim Hemstreet
Director, CIP
Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Re: Normandy Isle/ House Water Service Line Relocations

Dear Mr. Hemstreet:

Negotiations have been satisfactorily completed for subject project. The fee to perform this level of additional work expected for this project is for TIME AND MATERIALS NOT TO EXCEED \$51,894.00, as compared to the \$52,877.47 fee proposed by Williams Hatfield & Stoner, Inc. A savings of \$983.47 has been realized by the City of Miami Beach. This savings has been achieved primarily during the Lot Inspection phase by substituting a team consisting of an Engineer/Architect and Staff Engineer for a team of two Engineer/Architects proposed by WH&S, Inc. to perform the required tasks.

Also, P&A is recommending the use of an Engineer/Architect to perform coordination with the City, regarding the mail-out of the CADD sketches to the property owners. WH&S, Inc. proposes use of a Senior Engineer for that task.

Respectfully submitted,

James M. Pappas, P.E.

RECEIVED
HAZEN AND SAWYER, P.C.
Miami Beach, Florida

NOV 21 2002

BY COC SAY
Job No. 4002-1.2
1.2

CC: Bob Middaugh, Asst. City Manager
Michel Magloire, CIP Office
Kristin McKew, CIP Office
✓ Bert Vidal; C. Carreno, Hazen and Sawyer Engineers/Program Managers

EXHIBIT A: FEE DETAIL

** 01.99d 70101 **

Normandy Isle

1. PROJECT COORDINATION:	Designer	\$73.93
	Staff Engineer	70.89
	Engineer/Architect	88.11
	Senior Engineer	<u>104.31</u>
		\$337.24

Number of Hours 8

Estimated Project Coordination Expense \$2698

2. LOT INSPECTIONS:

450+ Lots @ 0.333 hours/lot = 150 hours
Engineer/Architect \$88.11/hr.
Staff Engineer 70.89/hr.
\$159.00/hr.

150 hours X \$159.00 = \$23,850

Estimated LOT INSPECTIONS EXPENSE \$23,850

3. CADD SKETCHES:

450+ Lots X 0.50 hours/lot = \$ 225 hours X \$73.93/hr. = \$16,634

Estimated CADD SKETCH EXPENSES \$16,634

4. COORDINATION WITH CITY / MAIL-OUT TO OWNERS:

Engineer/Architect
80 hours X \$88.11= \$7049

Estimated COORDINATION EXPENSES WITH CITY/
MAIL-OUT TO OWNERS \$7049

5. MODIFY 10% OF LOT SKETCHES DUE TO OWNER'S REQUESTS,
or ANY OTHER MODIFICATIONS, RESULTING FROM DEFERMENT
OF CONSTRUCTION:

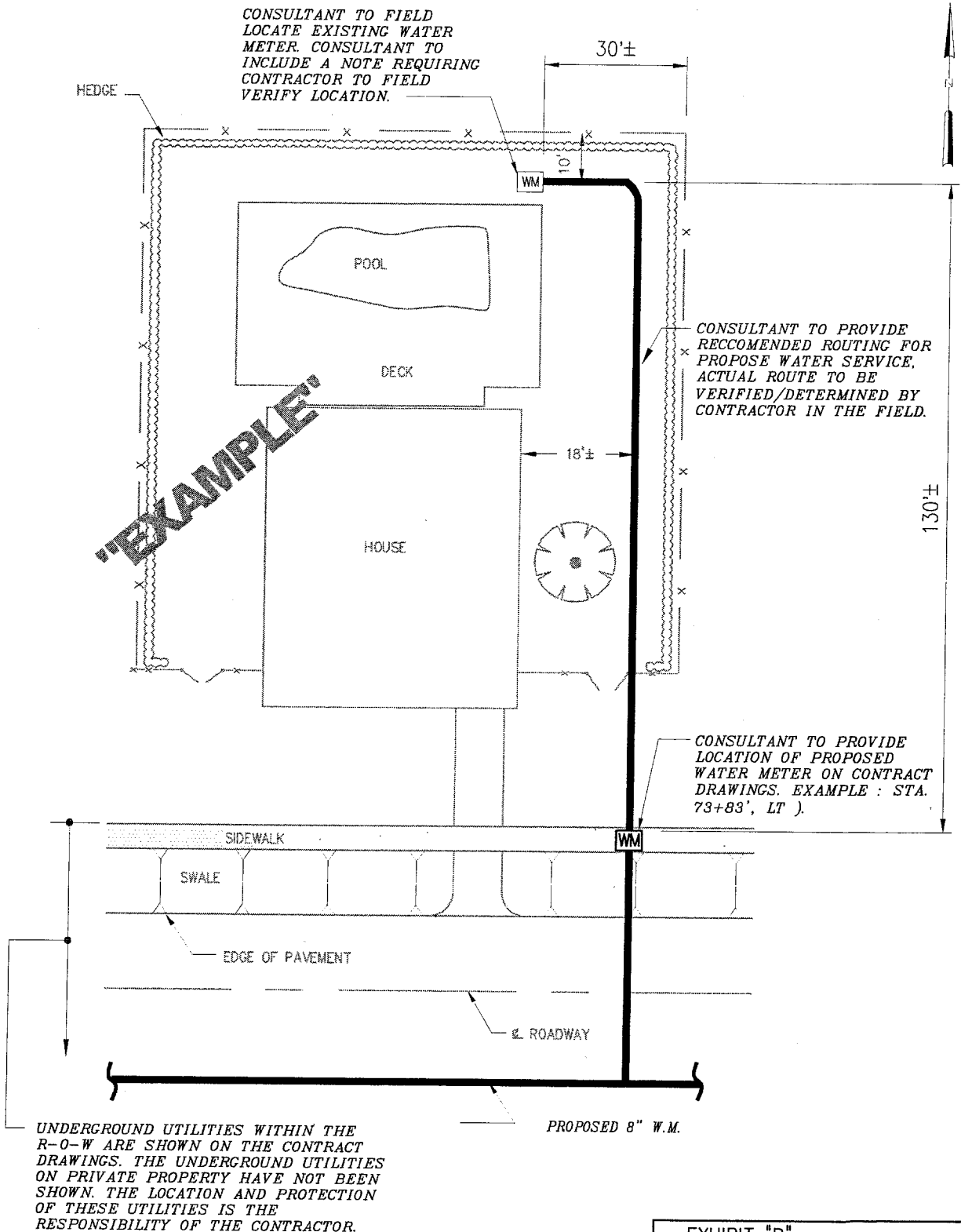
Designer
45 Lots X 0.50 hours/Lot X \$73.93 = \$1663

Estimated LOT MODIFICATIONS EXPENSES \$1663

TOTAL ESTIMATED TIME AND MATERIALS NOT TO EXCEED \$51,894.00

JMP
11/18/02

4/23/2003/2:45 P.M. - 07 HLWD - H:\4014\WATER\4014x22.dwg - XREFS: - PS 1=1



APPROXIMATE SCALE : 1"=20'-0"±



CITY OF MIAMI BEACH

RIGHT-OF-WAY IMPROVEMENT PROGRAM

WATER SERVICE/METER RELOCATION PLAN

EXHIBIT B:
WATERLINE RELOCATION POLICY

Page 6 of 7

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EXHIBIT "B"
SAMPLE-WATER SERVICE/
METER RELOCATION PLAN

NORMANDY ISLES/SUD

NEIGHBORHOOD No. 4

SHEET 14 of 450



(NORTH UP OR
TO THE RIGHT)

4/29/2003 8:57 A.M. -- 07 HLWD -- H:\4014\WATER\4014x23.dwg - XREFS: - PS 1=1

APPROXIMATE (MINIMUM) SCALE : 1"=20'-0"



CITY OF MIAMI BEACH

RIGHT-OF-WAY IMPROVEMENT PROGRAM

WATER SERVICE/METER RELOCATION PLAN

ADDRESS

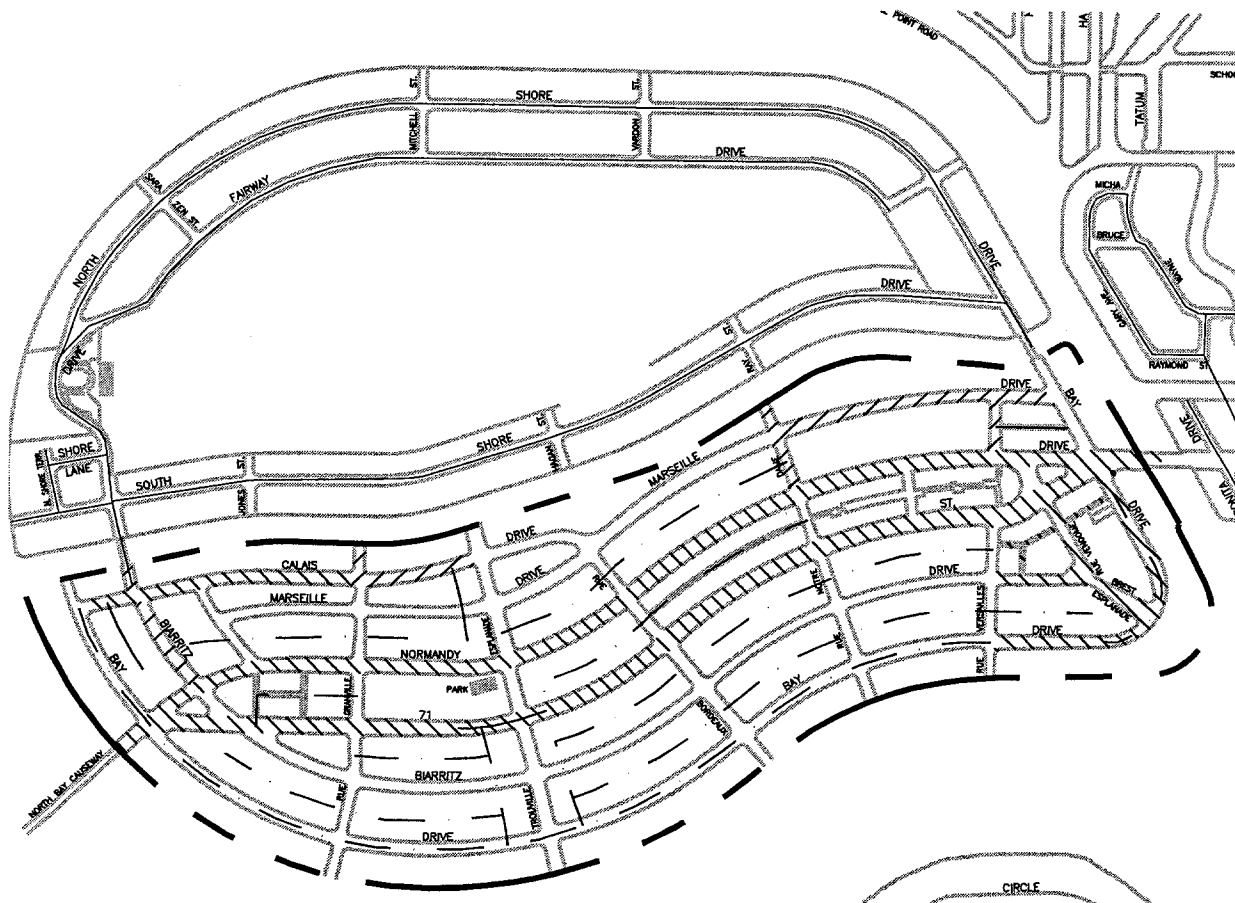
EXHIBIT "C"
BASE-WATER SERVICE/
METER RELOCATION PLAN

NEIGHBORHOOD NAME

NEIGHBORHOOD No. _

SHEET _ of _

**EXHIBIT C:
GEOGRAPHIC AREA OF
ADDITIONAL SERVICES**



LEGEND:

- BOUNDARY
- - - WATERMAIN
- /// BY OTHERS



**EXHIBIT C:
GEOGRAPHIC AREA OF
ADDITIONAL SERVICES**

**RESOLUTION AND AGREEMENT
TO BE SUBMITTED**

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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A resolution providing \$86,200 in HOME Program funds to MBCDC from fiscal year 2001/02 for the continuation of a scattered site Home Buyer Assistance Program to assist first-time home buyers, including participants in the Family Self Sufficiency Program established by the Housing Authority of the City of Miami Beach (HACOMB).

Issue:

Shall the City provide to MBCDC \$86,200 of HOME Program funds from fiscal year 2001/02 for the continuation of a scattered site Home Buyer Assistance Program.

Item Summary/Recommendation:


An allocation in the amount of \$86,200 from fiscal year 2001/02 HOME Program funds previously reserved for HACOMB will be provided to the MBCDC to be utilized for the continuation of a scattered-site first-time Home Buyer Assistance Program to provide a minimum of four income-eligible participants with the opportunity to become homeowners, including current Section 8 Program participants enrolled in the Family Self Sufficiency Program established by HACOMB.

In an effort to address the housing needs of the residents of Miami Beach, MBCDC established the scattered site Home Buyer Assistance Program in 1990. Since then, MBCDC has provided homeownership opportunities to over 240 participants. To date, no beneficiary of this homebuyer program has defaulted on a loan.

Advisory Board Recommendation:

On August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission approve exchanging \$760,000 in HOME Program funds from fiscal year 2001/02, that were previously reserved for HACOMB for the Single Parent Family Housing and Resource Center, with HOME Program funds from fiscal year 2002/03; and that MBCDC be provided \$86,200 of HOME Program funds from fiscal year 2001/02 for the continuation of a scattered site Home Buyer Assistance Program.


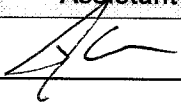
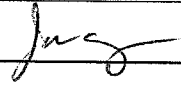
Financial Information:

Source of Funds:  Finance Dept.		Amount	Account	Approved
	1	\$86,200	151.5231	
	2			
	3			
	4			
	Total			

City Clerk's Office Legislative Tracking:

Vivian P. Guzman

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		

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AGENDA ITEM

C7C

DATE

9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM AGREEMENT WITH THE MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION (MBCDC), PROVIDING \$86,200 IN HOME PROGRAM FUNDS FROM FISCAL YEAR 2001/02, FOR THE CONTINUATION OF A SCATTERED SITE HOME BUYER ASSISTANCE PROGRAM IN ACCORDANCE WITH THE HOME PROGRAM REQUIREMENTS AND TO ASSIST FIRST-TIME HOME BUYERS INCLUDING PARTICIPANTS IN THE FAMILY SELF SUFFICIENCY PROGRAM ESTABLISHED BY THE HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH (HACOMB).**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

Resolution No. 2002-24863, adopted by the City on May 29, 2002, provided a reservation of HOME Program funds from fiscal year 2001/02 in the amount of \$760,000 for the Housing Authority of the City of Miami Beach (HACOMB) for the proposed Single Parent Family Housing and Resource Center to be located at 321-327 Michigan Avenue. On July 29, 2003, the HACOMB Board of Commissioners decided to move forward with this project by resubmitting it to the Design Review Board in October 2003 and to continue pursuing the permitting process which is now expected to be completed by December 2003. On August 1, 2003, the Law Review Committee (LRC) recommended that the Mayor and City Commission approve exchanging the \$760,000 in HOME Program funds from fiscal year 2001/02, that were previously reserved for HACOMB, for newer HOME Program funds. Therefore, in order to formally commit all fiscal year 2001/02 HOME Program funds by September 30, 2003, the HOME Program funds previously reserved for HACOMB will be utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other housing activities. Simultaneously, a reservation of HOME Program funds in the amount of \$760,000 will be made for HACOMB from fiscal year 2002/03 and future fiscal years.

Therefore, an allocation in the amount of \$86,200 from fiscal year 2001/02 HOME Program funds previously reserved for HACOMB will be provided to the Miami Beach Community Development Corporation (MBCDC) to be utilized for the continuation of a scattered site first-time Home Buyer Assistance Program to provide a minimum of four income-eligible

participants with the opportunity to become homeowners, including current Section 8 Program participants enrolled in the Family Self Sufficiency Program established by HACOMB. MBCDC provides homeownership counseling services including: assistance in identifying suitable affordable properties, assistance in financial management, budgeting and resolving adverse credit history, preparation for property acquisition and closing, and assistance in accessing private mortgage financing. The HOME funds will be used as second mortgages or may be used as third party mortgages, in combination with Miami-Dade County Documentary Surtax funded mortgages, to enable a wider range of residents to qualify for participation in the program. The HOME funds will be provided as non-interest bearing deferred payment loans. The HOME Agreement provides for a developer's fee of \$2,000 per unit, not to exceed ten percent of the total agreement.

In an effort to address the housing needs of the residents of Miami Beach, MBCDC established the scattered site Home Buyer Assistance Program in 1990. Since then, MBCDC has provided homeownership opportunities to over two hundred and forty-six participants. Sixty-five of these participants have received assistance through the City's HOME Program. To date, no beneficiary of this homebuyer program has defaulted on a loan.

The Administration recommends that the Mayor and City Commission authorize the Mayor and City Clerk to execute the attached HOME Investment Partnerships (HOME) Program Agreement with the Miami Beach Community Development Corporation (MBCDC) providing \$86,200 in HOME Program funds from fiscal year 2001/2002, for the continuation of a scattered site Home Buyer Assistance Program in accordance with the HOME Program requirements and to assist first-time home buyers including participants in the Family Self Sufficiency Program established by the Housing Authority of the City of Miami Beach (HACOMB).


RCM/VPJ/JR/MDC/SSL

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM AGREEMENT WITH THE MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION (MBCDC), PROVIDING \$86,200 HOME PROGRAM FUNDS FROM FISCAL YEAR 2001/02, FOR THE CONTINUATION OF A SCATTERED-SITE HOME BUYER ASSISTANCE PROGRAM IN ACCORDANCE WITH THE HOME PROGRAM REQUIREMENTS AND TO ASSIST FIRST-TIME HOME BUYERS INCLUDING PARTICIPANTS IN THE FAMILY SELF SUFFICIENCY PROGRAM ESTABLISHED BY THE HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH (HACOMB).

WHEREAS, the City has established a HOME Investment Partnerships Program (HOME Program) under the rules of the U.S. Department of Housing and Urban Development (HUD), which provides financial assistance for the purpose of providing affordable housing within the City; and

WHEREAS, the City has determined the necessity for providing affordable housing in the City through its Consolidated Plan, adopted by Resolution No. 98-22814 on July 1, 1998, and its One-Year Action Plan for Federal Funds for Fiscal Year 2001/02, adopted by Resolution No. 2001-24517 on July 18, 2001, as amended; and

WHEREAS, On May 29, 2002, the Mayor and City Commission adopted Resolution No. 2002-24863 providing a reservation of HOME Program funds from fiscal year 2001/02 in the amount of \$760,000 for the Housing Authority of the City of Miami Beach for the proposed Single Parent Family Housing and Resource Center, to be located at 321-327 Michigan Avenue; and

WHEREAS, on August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission approve exchanging the \$760,000 HOME Program funds from fiscal year 2001/02, that were previously reserved for Housing Authority of the City of Miami Beach for the Single Parent Family Housing and Resource; such that, the HOME Program funds from fiscal year 2001/02 will be utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other eligible housing activities; and

WHEREAS, on August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission fund the Miami Beach Community Development Corporation (MBCDC) to be utilized for the continuation of a scattered site first-time Home Buyer Assistance Program to provide a minimum of four income-eligible participants with the opportunity to become homeowners, including current Section 8 Program participants enrolled in the Family Self Sufficiency Program established by HACOMB; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk are hereby authorized to execute the attached Home Investment Partnerships (HOME) Program Agreement with the Miami Beach Community Development Corporation (MBCDC), providing \$86,200 HOME Program funds from fiscal year 2001/02, for the continuation of a Scattered-Site Home Buyer Assistance Program in accordance with the HOME Program requirements and to assist first-time home buyers including participants in the Family Self Sufficiency Program established by the Housing Authority of The City Of Miami Beach (HACOMB).

PASSED AND ADOPTED THIS _____ day of _____, 2003


ATTEST:

CITY CLERK

MAYOR

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

9/5/03

Date

HOME PROGRAM PROJECT AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 2003, by and between the **CITY OF MIAMI BEACH**, a Florida municipal corporation, having its principal office at 1700 Convention Center Drive, Miami Beach, Florida, (hereinafter referred to as City), and the **MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION**, a Florida Not-for-Profit Corporation, with offices located at 1205 Drexel Avenue, Miami Beach, Florida, (hereinafter referred to as MBCDC).

WITNESSETH:

WHEREAS, the City was designated by the United States Department of Housing and Urban Development (HUD) as a participating jurisdiction for the receipt of funds as provided under the HOME Investment Partnerships Program (HOME Program) under 24 CFR Part 92; and

WHEREAS, the City has entered into an Agreement with HUD for the purpose of conducting an affordable housing program with federal financial assistance under the HOME Program; and

WHEREAS, on April 18, 1993, the Mayor and City Commission approved Resolution No. 93-20756, designating Miami Beach Community Development Corporation (MBCDC) as a qualified Community Housing Development Organization (CHDO) under the HOME Program; and

WHEREAS, the City has determined the necessity for providing affordable housing in the City through the Fiscal Year 2002/03 One-Year Action Plan for Federal funds, adopted by Resolution No. 2002-24948 on July 31, 2002;

WHEREAS, on August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission approve exchanging the \$760,000 HOME Program funds from fiscal year 2001/02, that were previously reserved for Housing Authority of the City of Miami Beach for the Single Parent Family Housing and Resource; such that, the HOME Program funds from fiscal year 2001/02 will be utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other eligible housing activities; and

WHEREAS, on August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission fund the Miami Beach Community Development Corporation (MBCDC) to be utilized for the continuation of a scattered site first-time Home Buyer Assistance Program to provide a minimum of four income-eligible participants with the opportunity to become homeowners, including current Section 8 Program participants enrolled in the Family Self Sufficiency Program established by HACOMB; and

WHEREAS, Miami Beach Community Development Corporation (MBCDC) warrants and represents that it possesses the legal authority to enter into this Agreement, by way of a resolution, motion, or similar action that has been duly adopted or passed as an official act of the MBCDC governing body, authorizing the execution of this Agreement, including all understandings and assurances contained herein, and authorizing the person identified as the official representative of MBCDC to act in connection with this Agreement and to provide such additional information as may be required; and

WHEREAS, it is acknowledged and agreed that funds to be granted to MBCDC derive from Federal funds appropriated to the City by HUD for the uses and purposes herein referred to and, accordingly, it is acknowledged and agreed that this Agreement is entered into in compliance by the parties with all applicable provisions of Federal, State and local laws, statutes, rules and regulations.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

ARTICLE I **DEFINITIONS**

As used in this Agreement the terms listed below shall have the following meanings:

- (a) HOME: HOME Investment Partnerships Program, 24 CFR Part 92, as amended.
- (b) HUD: United States Department of Housing and Urban Development or any successor agency.
- (c) Funds: HOME Program funds.
- (d) Terms defined in the HOME Investment Partnerships Program Final Rule, 24 CFR Part 92, September 16, 1996, and any amendments thereto: Any term defined in the HOME Investment Partnerships Program Rule, not otherwise defined in this Agreement, shall have the meaning set forth in said rule.
- (e) CHDO: Community Housing Development Organization as defined in the HOME Program Final Rule, 24 CFR Part 92, as amended.
- (f) HOME Assisted Units: A term that refers to the number of units within a HOME project for which rent, occupancy, and/or recapture or resale restrictions apply.

ARTICLE II **ALLOCATION OF HOME FUNDS**

In consideration for the performance by MBCDC of its role and responsibilities set forth in this Agreement, the City will provide Eighty Six Thousand Two Hundred Dollars (\$86,200) (Funds), from its Fiscal Year 2001/02 HOME allocation to MBCDC to be used for acquisition, with or without rehabilitation, of scattered site single family units located in the City of Miami Beach. Unit ownership shall be transferred to a minimum of four (4) income-eligible home buyers as more fully described in the Scope of Services (Exhibit A), and Budget (Exhibit B), attached hereto. MBCDC agrees that each homebuyer receiving HOME funds will be required to execute a second or third mortgage document (the HOME Mortgage), in the form provided by the City, that will secure the Funds and detail the recapture restrictions imposed upon the Funds. The HOME Mortgage will be recorded in the Official Records of Dade County Florida, and forwarded to the City with other required closing documents.

ARTICLE III **PROCEEDS FROM HOME INVESTMENT**

In accordance with the HOME Final Rule as amended at §92.300 (a) (2), MBCDC may retain the proceeds resulting from the investment of its CHDO set aside funds for use in other housing activities which benefit low-income families. However, any recapture of HOME funds for housing not meeting the affordability requirements of 24 CFR §92.254 (a) (5) (ii), will be considered program income and will be repaid in accordance with the requirements of 24 CFR §92.503.

ARTICLE IV **SPECIAL PROVISIONS APPLICABLE TO FUNDS** **PROVIDED UNDER THE HOME PROGRAM**

MBCDC expressly agrees to the following terms and conditions in conformity with the HOME Program Final Rule, 24 CFR Part 92, as amended:

(a) **Affordability Period.** The period of time HOME assisted units must remain affordable is in accordance with 24 CFR §92.254 (home ownership housing), beginning after project completion.

(b) **Repayment of Funds; Transfer of Title.** The Funds (which definition shall include the allocation of any additional funds that may be provided by the City in the future as a result of an amendment or modification of this Agreement) shall be repaid in accordance with the terms of the HOME Mortgage executed by each recipient of the Funds if the HOME units do not meet the affordability requirements for the required time period, in accordance with the terms of this Agreement and the Regulations.

(c) MBCDC shall comply with all applicable federal regulations as they may apply to restrictions and limitations regarding real property under MBCDC's control acquired or improved in whole or in part with HOME funds.

(d) Projects must provide safe, sanitary, and decent residential housing for low-income and very low-income persons (i.e., a person whose income is within specific income levels set forth by U.S. HUD).

(e) **Income Targeting.** MBCDC shall maintain written documentation that conclusively demonstrates that each homebuyer household qualifies as low-income (annual income does not exceed 80 percent of the median income for the area) at the time of purchase.

(f) **Records:** MBCDC shall maintain all records sufficient to meet the requirements of 24 CFR 92.508(a)(2) program records, 92.508(a)(3) project records, 92.508(a)(5) other Federal requirements records, 92.508(a)(6) program administration records. All records required herein shall be retained and made accessible as provided in 24 CFR 92.508 © and (d) and Florida Statutes Chapter 119.

(g) **Property Standards.** Housing that is assisted with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances and zoning ordinances at the time of project completion (e.g., transfer of the ownership interest from the CHDO to the homebuyer) except for housing that is to be rehabilitated after transfer of the ownership interest shall meet the requirements of 24 CFR §92.251(b).

(h) **Maximum and Minimum Amount of HOME Subsidy Per Unit.** The minimum amount of HOME funds that can be invested is \$1,000 times the number of HOME assisted units, and the maximum amount of HOME subsidy is limited to the amounts listed in Exhibit C.

(i) **Environmental Clearance.** Immediately after a site is identified by MBCDC, MBCDC shall obtain the City's written environmental clearance statement and shall agree in writing to comply with any and all requirements as may be set forth in the Site Environmental Clearance Statement.

(j) **Affirmative Marketing.** MBCDC agrees to adopt and implement affirmative marketing procedures, upon approval of the City, for HOME Program projects containing five or more HOME-assisted housing units as set forth in 24 CFR 92.351 and to maintain records of its affirmative marketing activities in accordance with the record keeping requirements of 24 CFR 92.508 (a)(7)(ii).

(k) **Religious organizations.** HOME funds may not be provided to primarily religious organizations for any activity including secular activities. In addition, HOME funds may not be used to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing

(l) **Change in Status.** MBCDC agrees to advise the City in writing within thirty (30) days of any organizational, operational, or legal status changes made by MBCDC that affect documents that were submitted by MBCDC to obtain CHDO status.

(m) **CHDO Capabilities.** For the purpose of this Agreement, MBCDC shall serve as a CHDO "developer" pursuant to the Final HOME Rule, §92.300 (a).

(n) **Affordable housing: home ownership.** Housing that is for purchase qualifies as affordable housing only if the housing has a purchase price or, estimated value after rehabilitation, that does not exceed 95 percent of the median purchase price for single family housing in the City, as determined by HUD; is the principal residence of an owner whose family qualifies as low-income at the time of purchase; and is subject to recapture provisions established by the City for the required period of affordability. Units receiving assistance will be scattered throughout the City. Assisted units shall not exceed twenty percent of any single condominium project.

ARTICLE V

ELIGIBLE COSTS

MBCDC agrees that eligible costs for the project under this Agreement are limited to those eligible costs as outlined in 24 CFR 92.206 of the HOME Program regulations.

ARTICLE VI

DISBURSEMENT OF FUNDS

(a) The City shall issue a check to MBCDC for each approved home ownership transaction for down payment assistance (HOME Mortgage) to be provided to the homebuyer.

(b) Any payment due under the terms of this Agreement may be withheld pending the receipt and approval by the City of all reports and documents which MBCDC is required to submit to the City pursuant to the terms of this Agreement or any amendments thereto.

(c) No payments will be made without evidence of appropriate insurance required by this Agreement. Such evidence must be on file with the City.

(d) MBCDC understands and agrees that requests for disbursements of funds under this Agreement are only to be requested when the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.

(e) The City desires to enter into this Agreement only if in so doing it can retain the right of approval over the disbursement of HOME funds for the individual real estate transactions contemplated herein. Upon receipt of acceptable documentation of the applicant's income eligibility, site requirements, and a project proforma, the City shall issue a conditional commitment of HOME Funds for the individual transaction. Subsequently, MBCDC shall submit the remaining required documents relative to the transaction to the City's Economic and Community Development Department for review a minimum of thirty (30) days prior to the disbursement of HOME funds for the individual transaction. The City Manager or his designee shall be authorized by the City Commission to approve individual sites and transactions and to execute all required transaction documents.

(f) Cancellations of projects or site transactions with disbursements: If a project or site transaction is canceled, whether voluntarily by MBCDC or otherwise, an amount equal to the HOME funds disbursed by the City for the transaction, must be repaid to the City. The City shall be immediately notified, in writing, of a project or site cancellation and all funds disbursed by the City shall be repaid to the City within 15 days of the date of project or site cancellation.

ARTICLE VII

SUBCONTRACTS

(a) MBCDC shall use its best efforts to include a statement in all subcontracts that it executes that the subcontractor shall hold the City harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement to the extent allowed by law.

(b) If MBCDC subcontracts, a copy of the executed subcontract must be forwarded to the City within ten (10) days after execution.

ARTICLE VIII

CONDITIONS OF SERVICES

(a) MBCDC agrees to comply with the requirements of Executive Orders 11625 and 12432 concerning **Minority Business Enterprise** and **12138 Women's Business Enterprise** which encourage the use of minority and women's business enterprises, to the maximum extent possible, in connection with HOME-funded activities.

(b) MBCDC agrees to comply with the Displacement, Relocation and Acquisition requirements in accordance with the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)** (42 U.S.C. 4201-4655) and 49 CFR Part 24.

(c) CDC agrees to comply with all of the following federal laws, executive orders, and regulations pertaining to fair housing and equal opportunity.

(1) **Title VI of the Civil Rights Act of 1964, As Amended** (42 U.S.C. 2000d) -- States that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin. Its implementing regulations may be found in 28 CFR Part 1.

(2) **Title VIII of the Civil Rights Act of 1968, As Amended the "Fair Housing Act"** (42 U.S.C. 3601) and its implementing regulations at 24 CFR Part 100-115 -- Prohibits discrimination in the sale or rent of units in the private housing market against any person on the basis of race, color, religion, sex, national origin, familial status or handicap.

(3) **Equal Opportunity in Housing** (Executive Order 11063, As Amended by Executive Order 12259) and implementing regulations at 24 CFR Part 107 -- Prohibits discrimination in housing or residential property financing related to any federally assisted activity against individuals on the basis of race, color, religion, sex or national origin.

(4) **Age Discrimination Act of 1975, As Amended** (42 U.S.C. 6101) and its implementing regulations at 24 CFR Part 146 -- Prohibits age discrimination in programs receiving federal financial assistance.

(5) **Equal Employment Opportunity**, Executive Order 11246, As Amended and its implementing regulations at 41 CFR Part 60 -- Prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin. Provisions to effectuate this prohibition must be included in all construction contracts exceeding \$10,000.

(e) MBCDC agrees to comply with the requirements of **Section 3 of the Housing and Urban Development Act of 1968** (12 U.S.C. 1701u) -- Requires that, to the greatest extent feasible, opportunities for training and employment arising from HOME will be provided to low-income persons residing in the program service area; and, to the greatest extent feasible, contracts for work to be performed in connection with HOME will be awarded to business concerns which are located in or owned by persons residing in the program service area.

(f) MBCDC will ensure that all units in a project assisted with HOME funds comply with the **Lead Based Paint Poisoning Prevention Act** (42 U.S.C. 4821, et) and its implementing regulations at 24 CFR 35.

(g) MBCDC agrees to comply with the **Federal Labor Standards** Provisions, as described in HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs). Every contract for the construction (includes rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act. [reference 24 CFR §92.354 (a)].

(h) MBCDC agrees to comply with the requirements of 24 CFR part 24 regarding **debarment and suspension**.

ARTICLE IX **TERM OF AGREEMENT**

This Agreement shall be effective upon execution by both parties and shall end at the conclusion of the period of affordability as specified in 24 CFR §92.254 (affordable home ownership housing). MBCDC agrees that the funds shall be expended by September 30, 2001. Unexpended funds shall automatically revert to the City to be utilized for other affordable housing projects.

ARTICLE X **TERMINATION**

The City and MBCDC agree that this Agreement may be terminated in whole or in part, for cause (as defined in Article XXVI herein and in accordance with the provisions of 24 CFR Part 85.43) or for convenience (as defined in Article XXVII and in accordance with the provisions of 24 CFR, Part 85.44). A written notification shall be required at least thirty (30) days prior to the effective date of such termination, and shall include the reason for the termination (if for cause), the effective date, and in the case of a partial termination, the actual portion to be terminated.

ARTICLE XI **AMENDMENTS**

Any alterations, variations, modifications or waivers of this Agreement shall only be valid when they have been reduced to writing and duly signed by both parties hereto. Any changes which do not substantially

change the scope of the Agreement or increase the total amount payable under this Agreement, shall be valid only when reduced to writing and signed by the City Administration and MBCDC.

ARTICLE XII

CONFLICT OF INTEREST

(a) MBCDC shall comply with the standards contained in 24 CFR Part 92.356 which states that no owner, developer or sponsor of a project assisted with HOME funds (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private-for-profit or non-profit, may occupy a HOME-assisted affordable housing unit in a project. This provision does not apply to an owner-occupant of single family housing or to an employee or agent of the owner or developer of a rental housing project who occupies a HOME-assisted unit as the project manager or maintenance worker. Exceptions may be granted by the City in accordance with 24 CFR Part 92.356(f)(2).

(b) MBCDC shall disclose any possible conflicts of interest or apparent improprieties of any party that is covered by the above standards. MBCDC shall make such disclosure in writing to the City immediately upon MBCDC's discovery of such possible conflict. The City will then render an opinion which shall be binding on all parties.

(c) Related Parties. MBCDC shall report to the City the name, purpose, and any other relevant information in connection with any related-party transaction. This includes, but is not limited to, a for-profit subsidiary or affiliate organization, an organization with overlapping boards of directors, and an organization for which MBCDC is responsible for appointing memberships. MBCDC shall report this information to the City upon forming the relationship or, if already formed, shall report it immediately.

ARTICLE XIII

INDEMNIFICATION AND INSURANCE

MBCDC, through an insurance carrier, shall indemnify and hold harmless the City from any and all claims, liabilities, losses, and causes of action which may arise out of an act, omission, negligence or misconduct on the part of MBCDC or any of its agents, servants, employees, contractors, patrons, guests, clients, or invitees. MBCDC, through its insurance carrier, shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits in the name of the City, when applicable, and shall pay all costs and judgements which may issue thereon.

MBCDC shall maintain during the term of this Agreement, the insurance specified below:

- (1) General Liability: \$500,000 combined single limit for bodily injury and property damage, for each occurrence.
- (2) Contractual Liability: the policy must include coverage to cover the above indemnification.
- (3) Automobile and vehicle coverage in the amount of \$500,000 per occurrence shall be required when the use of automobiles and other vehicles are involved in any way in the performance of the Agreement, including non-owned automobile coverage.
- (4) Workers' Compensation Coverage as per statutory limits of the State of Florida. MBCDC shall submit to the City an ORIGINAL Certificate of Insurance for the above coverage.

The City of Miami Beach shall be named as an additional insured - to the extent of its insurable interest on all policies required herein. All insurance coverage shall be approved by the City's Risk Manager prior to the release of any funds under this Agreement. Further, in the event evidence of such insurance is not forwarded to the City's Risk Manager within thirty (30) days after the execution of this Agreement, this Agreement shall be null and void, and the City shall have no obligation under the terms thereof unless a written extension of this thirty (30) day requirement is secured from the Risk Manager.

ARTICLE XIV **REPORTS**

(a) **Progress Reports.** MBCDC agrees to submit monthly status reports which shall describe the progress made by MBCDC in achieving the project objectives identified in the Scope of Services (Exhibit A). The progress report shall be submitted no later than ten (10) days after the end of each month. It will be the responsibility of MBCDC to notify the City in writing, of any actions, law, or event, that will impede or hinder the success of the activities contemplated by this Agreement. After such notification, the City will take whatever actions it deems appropriate to ensure the success of the program.

(b) Annual verification of residency for each unit for the duration of the period of affordability effective twelve months from the closing date of each unit.

(c) Other reports as may be required by the City to demonstrate compliance with any of the terms of this Agreement.

If the required reports described above are not submitted to the City or are not completed in the manner acceptable to the City, the City may withhold further payments until they are completed or may take any other action as the City may deem appropriate.

ARTICLE XV **AUDIT AND INSPECTIONS**

At any time during normal business hours and as often as the City administration and/or the comptroller of the United States may deem necessary, there shall be made available to the City administration and/or representatives of the comptroller to audit, examine and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. If during the course of a monitoring, the City determines that any payments made to MBCDC do not constitute an allowable expenditure, the City will have the right to deduct/reduce those amounts from their related invoices. MBCDC must maintain records necessary to document compliance with the provisions of this Agreement.

ARTICLE XVI **COMPLIANCE WITH LOCAL STATE AND FEDERAL REGULATIONS**

MBCDC agrees to comply with all applicable Federal regulations as they may apply to program administration. Additionally, MBCDC will comply with all State and local laws and ordinances hereto applicable.

ARTICLE XVII
ADDITIONAL CONDITIONS

(a) It is expressly understood and agreed by the parties hereto that monies contemplated by this Agreement to be used for the compensation, originated from grants of Federal HOME Investment Partnerships Program funds and must comply with all applicable HUD rules and regulations.

It is expressly understood and agreed that in the event of curtailment or nonproduction of said federal grant funds, that the financial sources necessary to continue to pay MBCDC compensation will not be available and that this Agreement will thereby terminate effective as of the time that it is determined that said funds are no longer available.

In the event of such determination, MBCDC agrees that it will not look to, nor seek to hold liable, the City or any individual member of the City Commission thereof personally for the performance of this Agreement and all of the parties hereto shall be released from further liability each to the other under the terms of this Agreement.

(b) In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached document, the terms in this Agreement shall rule.

(c) waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

ARTICLE XVIII
ACCESS TO RECORDS

MBCDC, agrees to allow access during normal business hours to all financial records to authorized Federal, State or City representatives and agrees to provide such assistance as may be necessary to facilitate financial audit by any of these representatives when deemed necessary to insure compliance with applicable accounting and financial standards. MBCDC shall allow access during normal business hours to all other records, forms, files, and documents which have been generated in performance of this Agreement, to those personnel as may be designated by the City.

ARTICLE XIX
SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

ARTICLE XX
PROJECT PUBLICITY

MBCDC agrees that any news release or other type of publicity pertaining to the project as stated herein must recognize the City as the recipient funded by the United States Department of Housing and Urban Development administered by the City's Community/Economic Development Department and the entity which provided funds for the Project.

ARTICLE XXI
DRUG-FREE WORKPLACE

MBCDC agrees to administer, in good faith, a policy to ensure that it complies with the Drug-Free Workplace Act requirements under 24 CFR Part 24, Subpart F, and will ensure that the workplace is free from the unlawful manufacture, distribution, dispensing, possession or use of drugs or alcohol.

ARTICLE XXII
NONDELEGABLE

MBCDC agrees that the obligations undertaken pursuant to this Agreement shall not be delegated or assigned to any other person or firm unless the City shall first consent in writing to the performance or assignment of such service or any part thereof by another person or firm.

ARTICLE XXIII
SUCCESSORS AND ASSIGNS

MBCDC agrees that this Agreement shall be binding upon the parties herein, their heirs, executors, legal representatives, successors, and assigns.

ARTICLE XXIV
INDEPENDENT CONTRACTOR

MBCDC and its employees and agents shall be deemed to be independent contractors and not agents or employees of the City, and shall not attain any rights or benefits under the Civil Service or Pension Ordinances of the City; or any rights generally afforded classified or unclassified employees; further he/she shall not be deemed entitled to the Florida Workers' Compensation benefits as an employee of the City.

ARTICLE XXV
ASSIGNMENT

This Agreement may not be assigned or transferred by MBCDC without the prior written consent of the City thereto. It shall be deemed a default of this Agreement in the event that MBCDC does not strictly comply with the procedures established herein for obtaining City consent to assignment or transfer as defined by this Paragraph. In the event such consent is not obtained, in the manner prescribed herein, the City shall be entitled to declare a default, cancel this Agreement, and resort to its rights and remedies against the defaulting party. In the event MBCDC transfers an interest of more than one (1%) percent ownership in its stock by pledge, sale, or otherwise; or if MBCDC makes an assignment for the benefit of its creditors, or uses this Agreement as security or collateral for any loan; or if the MBCDC is involved in any bulk transfer of its business or assets, then in that event each of the foregoing actions shall also be deemed an assignment of this Agreement and shall require the City's prior written consent. A merger, dissolution, consolidation, conversion, liquidation or appointment of a receivership for MBCDC, shall be deemed an assignment of this Agreement and will require the prior written consent of the City thereto.

ARTICLE XXVI
TERMINATION FOR CAUSE

The City may place MBCDC in default of this Agreement and may suspend or terminate this Agreement, in whole or in part, for cause, as prescribed in Article X herein. "Cause" shall include the following:

(a) MBCDC's failure to comply and/or perform in accordance with any of the terms and conditions of this Agreement, or any Federal, State or local regulation;

(b) MBCDC's failure to maintain the insurance required by the City;

(c) Submitting any required report to the City which is late, incorrect, or incomplete in any material respect after notice and reasonable opportunity to cure, as set forth in subparagraph (e) hereof, has been given by the City to MBCDC;

(d) Implementation of this Agreement, for any reason is rendered impossible or infeasible;

(e) Failure to respond in writing within thirty (30) days of notice of same from City to any concerns raised by the City, including providing substantiating documentation when requested by the City;

(f) Any evidence of fraud, waste or mismanagement as determined by the City's monitoring of project(s) under this Agreement, or any violation of applicable HUD rules and regulations;

(g) MBCDC's insolvency or bankruptcy;

(h) An assignment or transfer of this Agreement or any interest therein which does not comply with the procedures set forth in Article XXV herein;

(i) Failure to comply and/or perform in accordance with the affordability requirements, and/or an unauthorized transfer of title of its HOME projects.

If the default complained of is not fully and satisfactorily cured within thirty (30) days of receipt of such notice of default to MBCDC, at the expiration of said thirty (30) day period (or such additional period of time, as permitted by the City, in its sole discretion, as required to cure such default in the event MBCDC is diligently pursuing curative efforts) this Agreement may, at the City's sole option and discretion, be deemed automatically canceled and terminated, and the City fully discharged from any and all liabilities, duties and terms arising out of, or accruing by virtue of this Agreement. In the event of a default for cause, the City may, at its option, avail itself of any and all remedies pursuant to 24 CFR Part 85.43, as amended from time to time, including suspension, in whole or in part, of MBCDC's grant award(s); recapture of the Funds, as set forth herein, and any other remedies that may be legally available.

ARTICLE XXVII

TERMINATION FOR CONVENIENCE

Notwithstanding Article XXVI above, MBCDC herein consents that the City may terminate this Agreement, in whole or in part, for convenience, as set forth in 24 CFR Part 85.44.

ARTICLE XXVIII

ADDITIONAL REMEDIES

In the event of a default and termination for cause, the City shall be entitled to bring any and all legal and/or equitable actions which it deems to be in its best interest, in Dade County, Florida, in order to enforce the City's rights and remedies against the defaulting party. The City shall be entitled to recover all costs of such actions, including reasonable attorney's fees. To the extent allowed by law, the defaulting party waives its right to jury trial and its right to bring permissive counterclaims against the City in any such action.

ARTICLE XXIX
MAINTENANCE AND RETENTION OF RECORDS

MBCDC agrees that it will maintain all records required pursuant to 24 CFR Part 92.508, in an orderly fashion in a readily accessible, permanent and secured location, and that it will prepare and submit all reports necessary to assist the City in meeting record keeping and reporting requirements thereunder.

(a) Records shall be maintained for a period of five years after the closeout of funds under this Agreement except as provided herein (2), (3) and (4).

(b) If any litigation, claim, negotiation, audit or other action has been started before the regular expiration date, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular period specified in paragraph (1), whichever is later.

(c) Records regarding project requirements that apply for the duration of the period of affordability, as well as the written agreement and inspection and monitoring reports must be retained for five years after the affordability period terminates.

(d) Records covering displacements and acquisition must be retained for at least five years after the date by which the persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR 92.353.

ARTICLE XXX
LIMITATION OF LIABILITY

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$86,200. MBCDC hereby expresses its willingness to enter into this Agreement with MBCDC's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$86,200. Accordingly, and notwithstanding any other term or condition of this Agreement, MBCDC hereby agrees that the City shall not be liable to MBCDC for damages in an amount in excess of \$86,200, for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

ARTICLE XXXI
VENUE

This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

ARTICLE XXXII
ADDITIONAL CONDITIONS AND COMPENSATION

It is expressly understood and agreed by the parties hereto that monies contemplated by this Agreement to be used for the Funds, originated from grants of federal HOME Investment Partnerships Program funds, and must be implemented with all of the applicable rules and regulation of the U.S. Department of Housing and Urban Development. It is expressly understood and agreed that in the event of curtailment or non-production

of said federal grant funds, that the financial sources necessary to continue to pay MBCDC compensation will not be available and that this Agreement will thereby terminate effective as of the time it is determined that said funds are no longer available. In the event of such determination, MBCDC agrees that it will not look to, nor seek to hold liable, the City or any individual member of the City Commission thereof, personally for the performance of this Agreement and all parties hereto shall be released from further liability each to the other under the terms of this Agreement.

ARTICLE XXXIII **ACCESSIBILITY LAWS COMPLIANCE**

MBCDC agrees to adhere to and be governed by the following accessibility requirements:

(a) **Architectural Barriers Act of 1968**, As Amended (42 U.S.C. 4151) and its implementing regulations at 35 CFR Part 107 -- States that public (i.e., those intended to be accessible to the general public) buildings and conveyances financed with federal funds are designed, constructed, or altered to provide accessibility to the physically handicapped.

(b) **Section 504 of the Rehabilitation Act of 1973** (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8 -- Prohibits discrimination in federally assisted programs on the basis of handicap and imposes requirements to ensure that "qualified individuals with handicaps" have access to programs and activities that receive federal funds.

(c) **Title VIII of the Civil Rights Act of 1968, As Amended the "Fair Housing Act"** (42 U.S.C. 3601) and its implementing regulations at 24 CFR Part 100-115.

MBCDC must complete and submit the City's Disability Non-Discrimination Affidavit (Affidavit), a copy of which is attached hereto and incorporated herein as Exhibit D. In the event MBCDC fails to execute the City's Affidavit, or is found to be in non-compliance with the provisions of the Affidavit, the City may impose such sanctions as it may determine to be appropriate, including but not limited to, withholding of payments to MBCDC under the Agreement until compliance and/or cancellation, termination or suspension of the Agreement in whole or in part. In the event the City cancels or terminates the Agreement pursuant to this Article, MBCDC shall not be relieved of liability to the City for damages sustained by the City by virtue of MBCDC's breach of the Agreement.

ARTICLE XXXIV
NOTICES

All notices shall be sent to the parties at the following addresses, with copies to the Office of the City Attorney:

City: City of Miami Beach
1700 Convention Center Drive, 3rd Floor
Miami Beach, FL 33139
Attn: (1) City Attorney's Office
and (2) Housing and Community Development Division Director

MBCDC: Roberto Datorre, President
MBCDC
945 Pennsylvania Avenue
Miami Beach, FL 33139

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized official(s) on the day and date first above indicated.

**MIAMI BEACH COMMUNITY DEVELOPMENT
CORPORATION**, a Florida not-for-profit corporation

ATTEST:

Secretary

Authorized Signatory

Printed Name and Title
of Authorized Signatory

ATTEST:

CITY OF MIAMI BEACH
a Florida Municipal corporation

City Clerk

Mayor

F:\DDHP\SALL\SUSAN\HOMEBUYE\HOMEAGRO.WPD

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney Date 7/5/03

EXHIBIT A

SCOPE OF SERVICES

Home Buyer Assistance Program

MBCDC will provide training, counseling and financial assistance to qualified first-time homebuyers, including Section 8 Program participants enrolled in the Family Self Sufficiency Program established by the HACOMB, in the purchase of property to be used as the principal residence. MBCDC will acquire, rehabilitate and sell existing scattered-site individual dwelling units, consisting of primary condominium units, to provide increased home ownership opportunities within Miami Beach for income eligible persons.

Implementation of this program is intended to complement, augment and extend the existing scattered-site home ownership program administered by MBCDC with funds allocated by Miami-Dade County Documentary Surtax Program and the City of Miami Beach Community Development Block Grant Program, SHIP Program, and HOME Program. HOME Program funds will be used as follows:

HOME funds may be used:

1) as non-interest bearing deferred payment loans in the form of a second mortgage, to enable qualified applicants to participate in the program; and 2) in conjunction with Surtax mortgages, as non-interest bearing deferred payments loans in the form of a third mortgage, to enable a broader range of persons to qualify for participation in the program.

MBCDC will provide home ownership counseling services to participants, including the following:

Assistance in identifying suitable affordable properties; financial management and budgeting and assistance in resolving adverse credit history; preparation for property acquisition and closing; and assistance in accessing private mortgage financing.

MBCDC will serve as CHDO "developer" as defined under the HOME Program, and will comply with the following specific requirements:

For first-time homebuyers programs where the CHDO does not have ownership for the property, the CHDO will obtain financing, rehabilitate the property, and have title of the property and the HOME loan obligation transferred from the owner to a HOME-qualified homebuyer within a specified time frame. The contractual obligation will be between the owner and the CHDO, and is independent of the City.

MBCDC will submit each proposed transaction to the Housing and Community Development Division for review in accordance with established time frames and procedures. The City Manager or his designee shall be authorized by the City Commission to approve individual sites and transactions and to execute all required transaction documents.

EXHIBIT B

BUDGET

Total amount of HOME Program funds: \$86,200

Form of assistance: HOME funds will be used to provide direct home ownership assistance as a portion of the home buyers financing package. HOME funds will be provided as either (a) non-interest bearing deferred second mortgage loans, or (b) in conjunction with Surtax mortgages, as non-interest bearing deferred third mortgage loans, to enable a broader range of persons to qualify for participation in the program. A developer fee of \$2,000 may be charged for each unit, not to exceed a total of \$8,620.

Number of HOME-assisted units: a minimum of 4 units

Deadline for expenditure of funds: September 30, 2006

Repayment of HOME Program funds: HOME funds provided directly to the home buyer shall be recaptured by the City in accordance with the terms of the HOME Mortgage executed at the property closing of each home ownership transaction and recorded in the Official Records of Miami-Dade County Florida. The HOME Mortgage shall be prepared by the City and approved by the City Attorney for form and content.

Implementation of this program is intended to complement, augment and extend the existing scattered-site home ownership program administered by MBCDC with funds allocated by Miami-Dade County Documentary Surtax Program and the City of Miami Beach Community Development Block Grant and SHIP Programs.

EXHIBIT C

**HOME PROGRAM
MAXIMUM PER-UNIT SUBSIDY LIMITS
REGION 04 FIELD OFFICE: 29 JACKSONVILLE, FL**

<u>PARTICIPATING JURISDICTION</u>	<u>STATE ABBREV</u>	EFFICIENCY*	1BR	2BR	3BR	4BR
MIAMI	FL	\$84,075	\$96,376	\$117,192	\$151,607	\$166,417

* 0-bedroom includes efficiency units and single room occupancy (SRO) units

SOURCE: U.S.HUD, Maximum Mortgage Limits (subject to change)

EXHIBIT D
DISABILITY DISCRIMINATION AFFIDAVIT

CONTRACT REFERENCE: _____
Name of firm, corporation, or organization

AUTHORIZED AGENT COMPLETING AFFIDAVIT: _____

POSITION: _____ PHONE NUMBER: _____

I, _____, being duly first sworn state: _____

That the above named firm, corporation or organization is in compliance with and agrees to continue to comply with, and assure that any subcontractor, or third party contractor under this project complies with all applicable requirements of the laws listed below including, but not limited to, those provisions pertaining to employment, provision of programs and services, transportation, communications, access to facilities, renovations, and new construction.

The Americans with Disabilities Act of 1990 (ADA): Pub. L. 101-336, 104 Stat 327, 42 U.S.C. 12101-12213 and 547 U.S.C. Sections 225 and 611 including Title I, Employment; Title II, Public Services; Title III, Public Accommodations and Services Operated by Private Entities; Title IV, Telecommunications; and Title V, Miscellaneous Provisions.

The Rehabilitation Act of 1973: 29 U.S.C. Section 794.

The Federal Transit Act, as amended: 49 U.S.C. Section 1612.

The Fair Housing Act as amended: 42 U.S.C. Section 3601-3631.

Signature (Date)

SUBSCRIBED AND SWORN TO (or affirmed) before me _____
(Date)

by _____
(Affiant)

He/She is personally known to me or has presented _____ as identification.
(Type of identification)

(Signature of Notary) (Serial Number)

(Print or Stamp Name of Notary) (Expiration Date)

Notary Public _____ (State) Notary Seal

The City of Miami Beach will not award a contract to any firm, corporation or organization that fails to complete and submit this Affidavit with the firm, corporation or organization's bid or proposal or fails to have this Affidavit on file with the City of Miami Beach.

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A resolution providing \$364,331 in HOME Program funds to MBCDC from a HOME Program Notice of Funding Availability (NOFA) utilizing funds from fiscal year 2001/02 towards the cost of rehabilitation of an apartment building located at 532 Michigan Avenue.

Issue:

Shall the City provide to MBCDC \$364,331 in HOME Program funds from a HOME Program NOFA utilizing funds from fiscal year 2001/02 towards the cost of rehabilitation of an apartment building located at 532 Michigan Avenue to provide eighteen rental units for income-eligible elderly residents in accordance with the HOME Program requirements.

Item Summary/Recommendation:

Execution of a Fourth Amendment to the HOME Investment Partnerships (HOME) Program Agreement, dated June 6, 2001, between the City and Miami Beach Community Development Corporation (MBCDC), providing \$364,331 in HOME Program funds from a HOME Program NOFA utilizing funds from fiscal year 2001/02, towards the cost of the rehabilitation of a building, located at 532 Michigan Avenue, Miami Beach, to provide eighteen rental units for income-eligible elderly residents in accordance with the HOME Program requirements. Subsequent additional City funding was provided for the rehabilitation of the property and in order for MBCDC to initiate the process of leveraging additional funds from other sources.

Advisory Board Recommendation:

On May 30, 2003, the Loan Review Committee (LRC) recommended that the City approve \$364,331 HOME Program funds to MBCDC from the 2002/2003 HOME Program NOFA for the rehabilitation of the apartment building at 532 Michigan Avenue. On August 1, 2003, the LRC recommended that the City approve utilizing HOME Program funds from fiscal year 2001/02 to substitute funding for the fiscal year 2002/03 HOME Program NOFA in order to formally commit all fiscal year 2001/02 HOME Program funds by September 30, 2003.

Financial Information:

Source of Funds:		Amount	Account	Approved
	1	\$364,331	151.5231	
	2			
	3			
	4			
	Total	\$364,331		

HOME Program
Finance Dept.

City Clerk's Office Legislative Tracking:

Vivian P. Guzmán

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM

C7D

DATE

9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A FOURTH AMENDMENT TO THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM AGREEMENT, DATED JUNE 6, 2001, BETWEEN THE CITY AND MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION (MBCDC), PROVIDING \$364,331 IN HOME PROGRAM FUNDS FROM A HOME PROGRAM NOTICE OF FUNDING AVAILABILITY (NOFA) UTILIZING FUNDS FROM FISCAL YEAR 2001/02, TOWARDS THE COST OF THE REHABILITATION OF A BUILDING, LOCATED AT 532 MICHIGAN AVENUE, MIAMI BEACH, TO PROVIDE EIGHTEEN RENTAL UNITS FOR INCOME-ELIGIBLE ELDERLY RESIDENTS IN ACCORDANCE WITH THE HOME PROGRAM REQUIREMENTS.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

On June 6, 2001, the City Commission adopted Resolution No. 2001-24453 authorizing the execution of a HOME Program Agreement with MBCDC, providing \$328,987 of HOME Program funds for the acquisition and rehabilitation of an apartment building, located at 532 Michigan Avenue, to provide eighteen rental units for income-eligible elderly residents in accordance with the HOME Program requirements. On August 23, 2001, MBCDC purchased the two-story concrete and masonry structure located at 532 Michigan Avenue, Miami Beach. Subsequent additional City funding was provided for the rehabilitation of the property and in order for MBCDC to initiate the process of leveraging additional funds from other sources for the rehabilitation of the building.

On February 3, 2003, the City issued a HOME Program Notice of Funding Availability (NOFA) in the amount of \$673,800 from fiscal year 2002/03 for the acquisition and/or rehabilitation of multi-family rental buildings or scattered sites for the purpose of providing affordable rental housing. In response to the HOME Program NOFA, MBCDC submitted an application for \$364,331 in HOME Program funds to complete the process of securing the funds needed for the rehabilitation of the property located at 532 Michigan Avenue. In addition to the HOME funds provided by the City, MBCDC has successfully secured \$500,000 from the Miami-Dade County Documentary Surtax Program, \$200,000 from the

Federal Home Loan Bank, and private financing for the rehabilitation of the building. The total cost of the project is estimated to be \$2,372,821, or \$213 per square foot.

The structure was built in 1925, consists of approximately 11,122 square feet and is configured into 22 apartments. MBCDC is proposing to make two units handicap accessible as required by the Americans with Disabilities Act. The resulting reconfiguration will provide 14 one-bedroom units and 4 efficiency units. The structural engineer's report stated that no major structural deficiencies were found. The floor grade of the first level of the building is below the base floodplain elevation required by the Federal Emergency Management Agency (FEMA) of 8 feet above NGVD. MBCDC will be required to comply with the provisions of the City's Flood Plain Management Ordinance 92-2822 to obtain appropriate permits and variances, if required. MBCDC is required to provide these rental units to income-eligible elderly residents for a minimum period of fifteen years after the rehabilitation of the building is complete and has offered to extend the affordability period for an additional five years making the units available to income-eligible elderly participants for a total of twenty years.

The proposed scope of work, based on a preliminary evaluation, includes the following: replace wall mounted A/C units with a central H.V.A.C. system, replace electrical system, repair or replace existing windows, provide new kitchenettes, refurbish/replace bathroom fixtures, refinish wood finishes, provide A.D.A. accessibility as required, upgrade fire alarm and detection system, refinish/re-plaster ceiling and wall areas as needed, provide an elevator, re-landscape entry, and provide security features as necessary. The building is currently vacant and no residents will be relocated.

In accordance with the terms of the HOME Program NOFA, applications were reviewed by City staff for completeness and compliance with the terms of the HOME Program NOFA and the HOME Program requirements. On May 30, 2003, the Loan Review Committee (LRC) recommended \$364,331 HOME Program funds from the HOME Program NOFA for the rehabilitation of the apartment building at 532 Michigan Avenue.

The funding for this project is an exchange of a previous reservation of HOME Program funds from fiscal year 2001/2002 (Resolution No. 2002-24863, adopted by the City on May 29, 2002) in the amount of \$760,000 for the Housing Authority of the City of Miami Beach (HACOMB) for the proposed Single Parent Family Housing and Resource Center to be located at 321-327 Michigan Avenue. On July 29, 2003, the HACOMB Board of Commissioners decided to move forward with this project by resubmitting the plans to the Design Review Board in October 2003 and to continue pursuing the permitting process that is now expected to be completed by December 2003. On August 1, 2003, the LRC recommended that the Mayor and City Commission approve exchanging the \$760,000 in HOME Program funds from fiscal year 2001/02, that were previously reserved for HACOMB, for newer HOME Program funds. Therefore, in order to formally commit all fiscal year 2001/02 HOME Program funds by September 30, 2003, in accordance with the HOME Program regulations, the HOME Program funds previously reserved for HACOMB will be utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other housing activities. Simultaneously, a reservation of HOME Program funds in the amount of \$760,000 will be made for HACOMB from fiscal year 2002/03 and future fiscal years.

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, authorize the Mayor and City Clerk to execute a Fourth Amendment to the HOME Investment Partnerships (HOME) Program Agreement, dated June 6, 2001, between the City and Miami Beach Community Development Corporation (MBCDC), providing \$364,331 in HOME Program funds from a HOME Program Notice of Funding Availability (NOFA) utilizing funds from fiscal year 2001/02, towards the cost of the rehabilitation of a building, located at 532 Michigan Avenue, Miami Beach, to provide eighteen rental units for income-eligible elderly residents in accordance with the HOME Program requirements.

 RCM/VPG/JR/MDC/SSL

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A FOURTH AMENDMENT TO THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM AGREEMENT, DATED JUNE 6, 2001, BETWEEN THE CITY AND MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION (MBCDC), PROVIDING \$364,331 IN HOME PROGRAM FUNDS FROM A HOME PROGRAM NOTICE OF FUNDING AVAILABILITY (NOFA) UTILIZING FUNDS FROM FISCAL YEAR 2001/02, TOWARDS THE COST OF THE REHABILITATION OF A BUILDING, LOCATED AT 532 MICHIGAN AVENUE, MIAMI BEACH, TO PROVIDE EIGHTEEN RENTAL UNITS FOR INCOME-ELIGIBLE ELDERLY RESIDENTS IN ACCORDANCE WITH THE HOME PROGRAM REQUIREMENTS.

WHEREAS, the City has established a HOME Investment Partnerships Program (HOME Program) under the rules of the U.S. Department of Housing and Urban Development (HUD), which provides financial assistance for the purpose of providing affordable housing within the City; and

WHEREAS, on April 8, 1993, the Mayor and City Commission approved Resolution No. 93-20756, designating Miami Beach Community Development Corporation (MBCDC) as a qualified Community Housing Development Organization (CHDO) under the HOME Program; and

WHEREAS, the City has determined the necessity for providing affordable housing in the City through its Consolidated Plan, adopted by Resolution No. 98-22814 on July 1, 1998, and its One-Year Action Plan for Federal Funds for Fiscal Year 2001/2002, adopted by Resolution No. 2001-24517 on July 18, 2001, as amended; and

WHEREAS, on June 6, 2001, the City adopted Resolution No. 2001-24453, authorizing a HOME Program Agreement between the City and MBCDC to provide \$328,987 of HOME Program funds for the acquisition and rehabilitation of an apartment building located at 532 Michigan Avenue, Miami Beach; and

WHEREAS, on February 20, 2002, the City adopted Resolution No. 2002-24748, authorizing a First Amendment to a HOME Program Agreement with the with Owner to utilize \$614,913 of the previously committed fiscal year 2001/02 CHDO funds for a CHDO project to acquire and rehabilitate an apartment building located at 532 Michigan Avenue; and

WHEREAS, on May 29, 2002, the City adopted Resolution No. 2002-24863, replacing the previously committed \$614,913 HOME Program funds from Fiscal Year 2001/02 with \$614,913 in HOME Program funds from fiscal years 1992/1993 and fiscal years 1993/1994; and

WHEREAS, on November 13, 2002, the City adopted Resolution No. 2002-25058 authorizing a Third Amendment to the HOME Program Agreement, dated June 6, 2001, between the City and MBCDC to provide \$208,777 of HOME Program funds for the acquisition and rehabilitation of the property; and

WHEREAS, on February 3, 2003, the City issued a HOME Program Notice of Funding Availability (NOFA) in the amount of \$673,800 from fiscal year 2002/03 for the acquisition and/or rehabilitation of multi-family rental buildings or scattered sites for the purpose of providing affordable rental housing and MBCDC submitted an application for HOME Program funds to be used towards the rehabilitation of the property located at 532 Michigan Avenue, Miami Beach; and

WHEREAS, on May 30, 2003, the Loan Review Committee recommended \$364,331 HOME Program funds from the HOME Program NOFA for fiscal year 2002/2003 for the rehabilitation of the apartment building, located at 532 Michigan Avenue, Miami Beach, to provide eighteen (18) rental units for income-eligible elderly residents in accordance with the HOME Program requirements; and

WHEREAS, on August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission approve exchanging the \$760,000 HOME Program funds from fiscal year 2001/02, that were previously reserved for Housing Authority of the City of Miami Beach for the Single Parent Family Housing and Resource; such that, the HOME Program funds from fiscal year 2001/02 will be utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other eligible housing activities; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk are hereby authorized to execute a fourth amendment to the HOME Investment Partnerships (HOME) Program Agreement, dated June 6, 2001, between the City and Miami Beach Community Development Corporation (MBCDC), providing \$364,331 in HOME Program funds from a HOME Program Notice Of Funding Availability (NOFA) utilizing funds from fiscal year 2001/02, towards the cost of the rehabilitation of a building located at 532 Michigan Avenue, Miami Beach, to provide eighteen rental units for income-eligible elderly residents in accordance with the HOME Program requirements.

PASSED AND ADOPTED THIS _____ day of _____, 2003

ATTEST:

CITY CLERK

MAYOR

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney



Date

FOURTH AMENDMENT TO HOME PROGRAM AGREEMENT

THIS FOURTH AMENDMENT TO THE AGREEMENT, entered into this ____ day of _____, 2003, by and between the **CITY OF MIAMI BEACH**, a Florida municipal corporation, having its principal office at 1700 Convention Center Drive, Miami Beach, Florida, (City), and **MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION, INC.**, a Florida Not-for-Profit Corporation, with offices located at 945 Pennsylvania Avenue, Miami Beach, Florida (hereinafter referred to as Owner).

WITNESSETH:

WHEREAS, on June 6, 2001, the City adopted Resolution No. 2001-24453, authorizing a HOME Program Agreement with Owner which committed \$328,987 from the City's fiscal year 2000/2001 HOME Program allocation for eligible CHDO projects; and

WHEREAS, on February 20, 2002, the City adopted Resolution No. 2002-24748, authorizing a First Amendment to a HOME Program Agreement with the with Owner to utilize \$614,913 of the previously committed fiscal year 2001/02 CHDO funds for a CHDO project to acquire and rehabilitate an apartment building located at 532 Michigan Avenue; and

WHEREAS, on May 29, 2002, the City adopted Resolution No. 2002-24863, authorizing a Second Amendment to a HOME Program Agreement amending the City's One-Year Action Plan for Federal Funds for Fiscal Year 2001/02 by reallocating \$760,000 of HOME Investment Partnerships (HOME) Program Funds from Fiscal Years 1992/93 and 1993/94 previously committed to the Housing Authority of the City of Miami Beach (HACOMB) for the development of a Single Parent Family Housing And Resource Center that was to be built at 1231-1251 17th Street; and

WHEREAS, on May 29, 2002, the City adopted Resolution No. 2002-24863, authorizing the same Second Amendment to the HOME Program Agreement, dated June 6, 2001, between the City and Owner, replacing the previously committed \$614,913 of HOME Program funds from Fiscal Year 2001/02 CHDO Funds with \$614,913 in HOME Program Funds from Fiscal Years 1992/93 and 1993/94 previously committed to the Housing Authority of the City of Miami Beach (HACOMB) toward the costs of acquisition and rehabilitation an apartment building located at 532 Michigan Avenue; and

WHEREAS, on February 3, 2003, the City issued a HOME Program Notice of Funding Availability (NOFA) in the amount of \$673,800 from fiscal year 2002/03 for the acquisition and/or rehabilitation of multi-family rental buildings or scattered sites for the purpose of providing affordable rental housing and MBCDC submitted an application for HOME Program funds to be used towards the rehabilitation of the property located at 532 Michigan Avenue, Miami Beach.

WHEREAS, on May 30, 2003, the Loan Review Committee recommended \$364,331 HOME Program funds from the HOME Program NOFA for fiscal year 2002/2003 for the rehabilitation of the apartment building, located at 532 Michigan Avenue, Miami Beach, to

provide eighteen (18) rental units for income-eligible elderly residents in accordance with the HOME Program requirements; and

WHEREAS, on August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission approve exchanging the \$760,000 HOME Program funds from fiscal year 2001/02, that were previously reserved for Housing Authority of the City of Miami Beach for the Single Parent Family Housing and Resource; such that, the HOME Program funds from fiscal year 2001/02 will be utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other eligible housing activities; and

WHEREAS, Owner warrants and represents that it possesses the legal authority to enter into this Agreement, by way of a resolution that has been duly adopted as an official act of the Board of Directors, authorizing the execution of this Agreement, including all understandings and assurances contained herein, and authorizing the person(s) identified as their official representative(s) to execute this Agreement and any other documents which may be necessary to implement this project; and

WHEREAS, the City and the Owner now wish to amend the Agreement.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows;

1. In all references throughout the Agreement, the 15-year affordability period is replaced by the 20-year affordability period.
2. In all references throughout the Agreement, the minimum of 18 rental units is replaced with 18 rental units.
3. ARTICLE II, ALLOCATION OF HOME FUNDS, page 2, the first paragraph is deleted in its entirety and amended as follows:

In consideration of the performance by Owner of its role and responsibilities set forth in this Agreement, the City agrees to provide a conditional grant of HOME Program funds to Owner in the amount of One Million One Hundred Fifty-Two Thousand Six Hundred Seventy-Seven Dollars (\$1,517,008) (Funds) which consists of \$208,777 of HOME Program Funds from the Fiscal Year 2001/02 HOME Program NOFA, \$614,913 of HOME Investment Partnerships (HOME) Program Funds from Fiscal Years 1992/93 and 1993/94 previously committed to the Housing Authority of the City of Miami Beach (HACOMB), \$328,987 of previously allocated Fiscal Year 2000/01 CHDO set-aside funds, and \$364,331 of HOME Investment Partnerships (HOME) Program funds from Fiscal Year 2001/02.

4. ARTICLE VI, DISBURSEMENT OF FUNDS, page 5, sentence (1) is deleted and replaced by the following sentence:

The Funds shall be used by Owner for acquisition and rehabilitation of real property, and related soft costs.

5. ARTICLE XXX, LIMITATION OF LIABILITY, page 15, is hereby deleted in its entirety and amended as follows:

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$1,517,008. Owner hereby expresses its willingness to enter into this Agreement with Owner's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$1,517,008. Accordingly, and notwithstanding any other term or condition of this Agreement, Owner hereby agrees that the City shall not be liable to Owner for damages in an amount in excess of \$1,517,008 for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

6. ARTICLE XXXIV, NOTICES, page 16, the address of the Owner is hereby changed to read as follows:

If to the City: City of Miami Beach
 1700 Convention Center Drive, 3rd Floor
 Miami Beach, FL 33139
 Attn: (1) City Attorney's Office
 and (2) Housing and Community Development Division Director

If to Owner: Roberto Datorre, President
 Miami Beach Community Development Corporation
 945 Pennsylvania Avenue
 Miami Beach, FL 33139

or to such address and to the attention of such other person as the City or Owner may from time to time designate by the written notice to the other.

7. The existing EXHIBIT B, BUDGET, is deleted in its entirety, and is replaced by the revised EXHIBIT B TO FOURTH AMENDMENT TO HOME PROGRAM AGREEMENT, BUDGET, reflecting the adjustments in the HOME Program funds from the City of Miami Beach.
8. Except as amended by this Amendment, no term or condition of the Agreement shall be modified and the same shall remain in full force and effect; provided, however, if any revision of this Amendment is in conflict with, or inconsistent with, any information in the Agreement, the provision contained in this Amendment shall govern and control.
9. This Amendment shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto executed this Amendment as of the day and date first above written.

ATTEST:

**MIAMI BEACH COMMUNITY
DEVELOPMENT CORPORATION**
a Florida not-for-profit corporation

Secretary

Roberto Datorre, President
Authorized Signatory

ATTEST:

CITY OF MIAMI BEACH
a Florida Municipal corporation

City Clerk

Mayor

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

9/5/03

Date

EXHIBIT B TO FOURTH AMENDMENT TO HOME PROGRAM AGREEMENT

SOURCES AND USES OF FUNDS

532 MICHIGAN AVENUE

ESTIMATED SOURCES OF FUNDS

CITY OF MIAMI BEACH HOME PROGRAM FUNDS	\$1,152,677
FIRST MORTGAGE FINANCING	155,813
MIAMI-DADE COUNTY SURTAX INCENTIVE POOL	500,000
FEDERAL HOME LOAN BANK	200,000
REQUESTED FROM CITY OF MIAMI BEACH HOME PROGRAM FUNDS	364,331
	\$2,372,821

USES OF FUNDS

ACQUISITION OF PROPERTY	\$850,000
PRE-DEVELOPMENT COSTS	233,633
REHABILITATION CONSTRUCTION	1,089,188
DEVELOPER'S FEE	150,000
CONSTRUCTION CONTINGENCIES	50,000
	\$2,372,821

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A resolution providing \$309,469 in HOME Program funds to Carrfour Supportive Housing from a HOME Program Notice of Funding Availability (NOFA) utilizing funds from fiscal year 2001/02 towards the cost of rehabilitation of a building located at 530 Meridian Avenue.

Issue:

Shall the City provide to Carrfour Supportive Housing \$309,469 in HOME Program funds from a HOME Program NOFA utilizing funds from fiscal year 2001/02 towards the cost of rehabilitation of a building located at 530 Meridian Avenue to provide fifty-five SRO-units for formerly homeless individual participating in the Miami-Dade County Continuum of Care in accordance with the HOME Program requirements.

Item Summary/Recommendation:

Execution of a HOME Investment Partnerships (HOME) Program Agreement between the City and Carrfour Supportive Housing, providing \$309,469 in HOME Program funds from a HOME Program Notice of Funding Availability (NOFA) utilizing funds from fiscal year 2001/02, towards the cost of the rehabilitation of a building, located at 530 Meridian Avenue, Miami Beach, to provide 71 Single Room Occupancy (SRO) units. Of these units, 55 units will be provided as transitional housing for formerly homeless individuals participating in the Dade County Continuum of Care, 15 units will be provided as rental units for income eligible residents and 1 unit will be for the building manager.

This phase of the Continuum of Care prepares for independent living. The City has met with Carrfour and requested that a significant number of units be set aside for formerly Miami Beach homeless individuals and/or families.

Advisory Board Recommendation:

On May 30, 2003, the Loan Review Committed (LRC) recommended that the City approve \$309,469 in HOME Program funds to Carrfour Supportive Housing from the HOME Program NOFA from fiscal year 2002/03 for the rehabilitation of the building located at 530 Meridian Avenue. On August 1, 2003, the LRC recommended that the City approve utilizing HOME Program funds from fiscal year 2001/02 to substitute funding for the fiscal year 2002/03 HOME Program NOFA in order to formally commit all fiscal year 2001/02 HOME Program funds by September 30, 2003.

Financial Information:

Source of Funds:	Amount		Account	Approved
	1	2		
HOME Program Finance Dept.		\$309,469	151.5231	
	2			
	3			
	4			
	Total	\$309,469		

City Clerk's Office Legislative Tracking:

Vivian P. Guzmán

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM C7E

DATE 9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM AGREEMENT BETWEEN THE CITY AND CARRFOUR SUPPORTIVE HOUSING, PROVIDING \$309,469 IN HOME PROGRAM FUNDS FROM A HOME PROGRAM NOTICE OF FUNDING AVAILABILITY (NOFA) UTILIZING FUNDS FROM FISCAL YEAR 2001/02, TOWARDS THE COST OF THE REHABILITATION OF A BUILDING, LOCATED AT 530 MERIDIAN AVENUE, MIAMI BEACH, TO PROVIDE FIFTY-FIVE HOME PROGRAM RENTAL UNITS FOR INCOME-ELIGIBLE RESIDENTS IN ACCORDANCE WITH THE HOME PROGRAM REQUIREMENTS.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

On February 3, 2003, the City issued a HOME Program Notice of Funding Availability (NOFA) in the amount of \$673,800 from fiscal year 2002/03 for the acquisition and/or rehabilitation of multi-family rental buildings or scattered sites for the purpose of providing affordable rental housing. In response to the HOME Program NOFA, Carrfour Supportive Housing (Carrfour) submitted an application for \$350,000 in HOME Program funds to be used toward the rehabilitation of the property located at 530 Meridian Avenue, Miami Beach. On June 2001, Carrfour acquired the property for \$1,650,000 utilizing funds provided by the Federal Home Loan Bank and a purchase money mortgage. In addition, Carrfour has secured \$1,000,000 from the Florida Housing Finance Corporation, \$604,395 from the Miami-Dade County Documentary Surtax Program, and \$395,605 in Miami-Dade HOME Investment Partnerships Program for the rehabilitation of the building. The total cost of the project is estimated to be \$3,989,469, or \$275 per square foot.

The property consists of a building containing seventy-six hotel rooms that will be reconfigured into seventy-one Single Room Occupancy (SRO) units. Of these units, fifty-five units will be provided as transitional housing for formerly homeless individuals participating in the Miami-Dade County Continuum of Care, fifteen units will be provided as rental units for income-eligible residents, and one unit will be provided as the building manager's unit. In accordance with HOME Program requirements, Carrfour will provide the rental units for the formerly homeless for a minimum of five years after the rehabilitation is complete. Carrfour has indicated that no social services such as counseling, substance

abuse and/or job placement assistance will be provided at 530 Meridian Avenue.

The Continuum of Care consists of emergency, transitional and permanent housing. Transitional housing usually targets homeless individuals and families in emergency housing who have had their immediate needs met, and who require more intensive, specialized services to achieve residential and financial stability. This phase of the Continuum of Care prepares individuals for independent living. In addition, the City has met with Carrfour and requested that a significant number of the units be set aside for formerly Miami Beach homeless individuals and/or families.

The building has a total area of 14,531 square feet. The scope of the exterior rehabilitation will include: full exterior historic renovation including new roof, new windows and doors, accessibility improvements and patio rehabilitation. The interior improvements will consist of new plumbing and electrical systems, installation of central air-conditioning system, new doors, appliances, plumbing fixtures, floor finishes, installation of wheelchair lift, and historic restoration of the lobby.

On May 9, 2003, the City issued a thirty-day placard declaring the building unfit for human habitation. Subsequently, Carrfour vacated the building. In the process, Carrfour informed the City that up to eight of the residents of 530 Meridian Avenue may be eligible for relocation benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Carrfour has indicated that it intends to utilize a portion of the HOME Program funds previously provided to them by Miami-Dade County for the cost associated with relocation benefits. It is important to note that Carrfour was very cooperative with the City and provided daily status reports on the residents eligible for relocation benefits.

In accordance with the terms of the HOME Program NOFA, applications were reviewed by City staff for completeness and compliance with the terms of the HOME Program NOFA and the HOME Program requirements. On May 30, 2003, the Loan Review Committee recommended \$309,469 HOME Program funds from the HOME Program NOFA from fiscal year 2002/03 for the rehabilitation of the building at 530 Meridian Avenue.

The funding for this project is an exchange of a previous reservation of HOME Program funds from fiscal year 2001/02 (Resolution No. 2002-24863, adopted by the City on May 29, 2002) in the amount of \$760,000 for the Housing Authority of the City of Miami Beach (HACOMB) for the proposed Single Parent Family Housing and Resource Center to be located at 321-327 Michigan Avenue. On July 29, 2003, the HACOMB Board of Commissioners decided to move forward with this project by resubmitting it to the Design Review Board in October 2003 and to continue pursuing the permitting process which is now expected to be completed by December 2003. On August 1, 2003, the LRC recommended that the Mayor and City Commission approve exchanging the \$760,000 in HOME Program funds from fiscal year 2001/02, that were previously reserved for HACOMB, for newer HOME Program funds. Therefore, in order to formally commit all fiscal year 2001/02 HOME Program funds by September 30, 2003, in accordance with the HOME Program regulations, the HOME Program funds previously reserved for HACOMB will be utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other housing activities. Simultaneously, a reservation of HOME Program funds in the amount of \$760,000 will be made for HACOMB from fiscal year 2002/03 and future fiscal years.

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, authorize the Mayor and City Clerk to execute a HOME Investment Partnerships (HOME) Program Agreement between the City and Carrfour Supportive Housing, providing \$309,469 in HOME Program funds from a HOME Program Notice of Funding Availability (NOFA) utilizing funds from fiscal year 2001/02, towards the cost of the rehabilitation of a building, located at 530 Meridian Avenue, Miami Beach, to provide fifty-five HOME Program rental units for income-eligible residents in accordance with the HOME Program requirements.

 RCM/VBG/JR/MDC/SSL

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM AGREEMENT BETWEEN THE CITY AND CARRFOUR SUPPORTIVE HOUSING, PROVIDING \$309,469 IN HOME PROGRAM FUNDS FROM A HOME PROGRAM NOTICE OF FUNDING AVAILABILITY (NOFA) UTILIZING FUNDS FROM FISCAL YEAR 2001/02, TOWARDS THE COST OF THE REHABILITATION OF A BUILDING, LOCATED AT 530 MERIDIAN AVENUE, MIAMI BEACH, TO PROVIDE FIFTY-FIVE HOME PROGRAM RENTAL UNITS FOR INCOME-ELIGIBLE RESIDENTS IN ACCORDANCE WITH THE HOME PROGRAM REQUIREMENTS.

WHEREAS, the City has established a HOME Investment Partnerships Program (HOME Program) under the rules of the U.S. Department of Housing and Urban Development (HUD), which provides financial assistance for the purpose of providing affordable housing within the City; and

WHEREAS, the City has determined the necessity for providing affordable housing in the City through its Consolidated Plan, adopted by Resolution No. 98-22814 on July 1, 1998, and its One-Year Action Plan for Federal Funds for Fiscal Year 2001/02, adopted by Resolution No. 2001-24517 on July 18, 2001, as amended; and

WHEREAS, on February 3, 2003, the City issued a HOME Program Notice of Funding Availability (NOFA) in the amount of \$673,800 from fiscal year 2002/03 for the acquisition and/or rehabilitation of multi-family rental buildings or scattered sites for the purpose of providing affordable rental housing and Carrfour Supportive Housing submitted an application for HOME Program funds to be used towards the rehabilitation of the property located at 530 Meridian Avenue, Miami Beach; and

WHEREAS, on May 30, 2003, the Loan Review Committee recommended \$309,469 HOME Program funds from the HOME Program NOFA for fiscal year 2002/03 for the rehabilitation of the building at 530 Meridian Avenue to provide 55 HOME Program units for transitional housing for formerly homeless individuals participating in the Miami-Dade County Continuum of Care for a minimum period of five years; and

WHEREAS, on August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission approve exchanging the \$760,000 HOME Program funds from fiscal year 2001/02, that were previously reserved for Housing Authority of the City of Miami Beach for the Single Parent Family Housing and Resource; such that, the HOME Program funds from fiscal year 2001/02 will utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other eligible housing activities; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk

are hereby authorized to Execute a Home Investment Partnerships (HOME) Program Agreement between the City and Carrfour Supportive Housing, providing \$309,469 in HOME Program funds from a HOME Program Notice Of Funding Availability (NOFA) utilizing funds from fiscal year 2001/02, towards the cost of the rehabilitation of a building, located at 530 Meridian Avenue, Miami Beach, to provide fifty-five HOME Program rental units for income-eligible residents in accordance with the HOME Program requirements.

PASSED AND ADOPTED THIS _____ day of _____, 2003

ATTEST:

CITY CLERK

MAYOR

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Donald P. [Signature] 9/5/03
City Attorney Date

HOME PROGRAM AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 2003, by and between the **CITY OF MIAMI BEACH**, a Florida municipal corporation, having its principal office at 1700 Convention Center Drive, Miami Beach, Florida, (City), and **CARRFOUR SUPPORTIVE HOUSING**, a Florida Not-for-Profit Corporation, with offices located at 155 South Miami Avenue, Suite 1150, Florida (hereinafter referred to as Owner).

WITNESSETH:

WHEREAS, on February 18, 1992, the City was designated by the U.S. Department of Housing and Urban Development (HUD) as a Participating Jurisdiction for the receipt of funds through the HOME Investment Partnerships (HOME) Program under 24 CFR 92; and

WHEREAS, the City has entered into an agreement with HUD for the purpose of conducting an affordable housing program with federal financial assistance under the HOME Program; and

WHEREAS, on February 3, 2003, the City issued a HOME Program Notice of Funding Availability (NOFA) in the amount of \$673,800 from fiscal year 2002/03 for the acquisition and/or rehabilitation of multi-family rental buildings or scattered sites for the purpose of providing affordable rental housing and Carrfour Supportive Housing submitted an application for HOME Program funds to be used towards the rehabilitation of the property located at 530 Meridian Avenue, Miami Beach; and

WHEREAS, on May 30, 2003, the Loan Review Committee recommended \$309,469 HOME Program funds from the HOME Program NOFA for fiscal year 2002/2003 for the rehabilitation of the building at 530 Meridian Avenue to provide 55 HOME Program units for transitional housing for formerly homeless individuals participating in the Miami-Dade County Continuum of Care for a minimum period of five years; and

WHEREAS, on August 1, 2003, the Loan Review Committee recommended that the Mayor and City Commission approve exchanging the \$760,000 HOME Program funds from fiscal year 2001/02, that were previously reserved for Housing Authority of the City of Miami Beach for the Single Parent Family Housing and Resource; such that, the HOME Program funds from fiscal year 2001/02 will be utilized to substitute funding for the fiscal year 2002/03 HOME Program NOFA and other eligible housing activities; and

WHEREAS, Owner warrants and represents that it possesses the legal authority to enter into this Agreement, by way of a resolution that has been duly adopted as an official act of the Board of Directors, authorizing the execution of this Agreement, including all understandings and assurances contained herein, and authorizing the person(s) identified as their official representative(s) to execute this Agreement and any other documents which may be necessary to implement this project; and

WHEREAS, Owner intends to create a not-for-profit entity which will assume all interest and title to the property located at 530 Meridian Avenue and be a successor in interest to Carrfour Supportive Housing pursuant to this Agreement; and

WHEREAS, accordingly, the City herein agrees and consents to a one-time only assignment of this Agreement to Sunsouth Place, Inc.; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

ARTICLE I **DEFINITIONS**

As used in this Agreement the terms listed below shall have the following meanings:

- (a) HOME Program: HOME Investment Partnerships Program, as set forth in 24 CFR Part 92, as amended.
- (b) HUD: United States Department of Housing & Urban Development or any successor agency.
- (c) Funds: HOME Program funds.
- (d) CHDO: Community Housing Development Organization as defined in the HOME Investment Partnerships Program, 24 CFR, Part 92, as amended, and CPD Notice 94-02.
- (e) Terms defined in the HOME Investment Partnerships Program Final Rule, 24 CFR Part 92, and any amendments thereto, not otherwise defined in this Agreement, shall have the meaning set forth in said Rule.
- (e) HOME Assisted Units: A term that refers to the number of units in a project assisted with HOME Program funds for which rent, occupancy, and resale/recapture restrictions apply.

ARTICLE II **ALLOCATION OF HOME FUNDS**

In consideration of the performance by Owner of its role and responsibilities set forth in this Agreement, the City agrees to provide a conditional grant of HOME Program funds to Owner in the amount of Three Hundred Nine Thousand Four Hundred Sixty-Nine Dollars (\$309,469) (Funds) from fiscal year fiscal year 2001/02.

The Funds will be utilized by Owner for rehabilitation of the building located at 530 Meridian Avenue, Miami Beach, that will provide 55 rental units as transistional housing for formerly homeless individual participating in the Miami-Dade County Continuum of Care. Owner

will rehabilitate the building as more fully described in the Scope of Services (Exhibit A) and Budget (Exhibit B). Owner will maintain required HOME Program rent and occupancy limitations for a minimum period of 5 years (the Affordability Period) commencing with the issuance of the final approved Certificate of Completion by the City's Building Department following the planned rehabilitation.

ARTICLE III

SPECIAL PROVISIONS APPLICABLE TO FUNDS PROVIDED UNDER THE HOME PROGRAM

Owner expressly agrees to the following terms and conditions in conformity with the HOME Program Final Rule.

(a) **Repayment of Funds.** The Funds (which definition shall include the allocation of any additional funds that may be provided by the City in the future as a result of an amendment or modification of this Agreement) shall be repaid in their entirety if the HOME units do not meet the affordability requirements for the required time period in accordance with the terms of this Agreement and the HOME Program Regulations. Any violation of these requirements may, at the City's option, result in the entire amount of the Funds, as indicated in Article II or as subsequently amended or modified, being returned and/or otherwise repaid by Owner to the City, and same shall be considered and treated as an event of default resulting in the City's termination for cause of the Agreement, pursuant to Article XXVI herein. The City reserves the right to review the affordability requirements, as set forth herein. Concurrent with its execution of this Agreement and/or any projects pursuant to this Agreement, Owner shall execute a Mortgage and Note in the format provided by the City, incorporating the terms of this section, which shall be recorded in the Official Records of Miami-Dade County Florida. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They must be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure.

(b) **Rent Limitation.** HOME assisted rental units will bear rents in accordance with 24 CFR 92.252, as published from time-to-time by HUD. The City shall provide a HOME Program rent schedule annually to Owner.

(c) **Rent schedule and utility allowances.** In accordance with 24 CFR 92.252(b)(c) and (d), the City must review and approve rents and the monthly utility allowances proposed by the owner prior to initial occupancy. Owner must re-examine and document the income of each tenant living in the HOME assisted units annually. The maximum monthly rent must be recalculated by Owner and reviewed and approved by the City annually. Any increase in rents for HOME-assisted units is subject to the provisions of outstanding leases and, in any event, the owner must provide the tenant with not less than 30 days written notice before implementing any rent increase.

(d) Owner shall comply with all applicable federal regulations as they may apply to

restrictions and limitations regarding real property under Owner's control acquired or improved in whole or in part with HOME funds.

(e) The Project must provide safe, sanitary, and decent residential housing for income eligible tenants (i.e., persons whose income is within specific income levels set forth by HUD).

(f) **Income Targeting.** Owner shall maintain written documentation that conclusively demonstrates that the project assisted in whole or in part with HOME funds provides benefit to very-low income households (annual income does not exceed 50 percent of the median family income for the area) and low-income households (annual income does not exceed 80 percent of the median income for the area) as required.

(g) **Records:** Owner shall maintain all records sufficient to meet the requirements of 24 CFR 92.508(a)(2) program records, 92.508(a)(3) project records, 92.508(a)(5) other Federal requirements records, 92.508(a)(6) program administration records. All records required herein shall be retained and made accessible as provided in 24 CFR 92.508 (c) and (d) and Florida Statutes Chapter 119.

(i) **Property Standards.** For the duration of this Agreement and any amendments hereto, housing that is assisted with HOME funds, must meet all applicable local codes, rehabilitation standards, ordinances and zoning ordinances at the time of project completion. The City shall conduct annual or bi-annual, as required, on-site inspections of the project to assure compliance with housing codes. The City may select a sample of the units in the project to satisfy the inspection requirements.

(j) **Environmental Review.** For the Project described in the Scope of Services (Exhibit A), attached hereto, Owner shall obtain a Phase I, Environmental Assessment, and agree to mitigate any hazardous conditions identified therein.

(k) **Affirmative Marketing.** In order to provide persons in the housing market area with a range of housing choice, regardless of race, color, religion, sex, handicap, familial status, or national origin, Owner agrees to administer the HOME Program in a manner that will affirmatively further the purposes of Title VI of the Civil Rights Act of 1964 at 24 CFR 1, the Fair Housing Act at 24 CFR 100 and Executive Order 11063 at 24 CFR 107. Owner will submit its written procedures that implement these requirements for review and approval by the City.

(l) **Tenant and Participant Protection.** Owner agrees that the lease to be executed with the tenants of rental housing will be in accordance with 24 CFR Part 92.253. Furthermore, if HOME assistance is provided to a CHDO, the CHDO must adhere to a fair lease and grievance procedure approved by the City and provide a plan for and follow a program of tenant participation in management decisions (24 CFR Part 92.303).

(m) **Change in Status.** Owner agrees to advise the City in writing within thirty (30) days of

any organizational, operational or legal status changes made by Owner that affect documents that were submitted by Owner.

ARTICLE IV **ELIGIBLE COSTS**

Owner agrees that eligible costs for the Project under this Agreement are limited to those eligible costs as outlined in 24 CFR Part 92.206 of the HOME Program regulations.

ARTICLE V **DISBURSEMENT OF FUNDS**

- (1) The Funds shall be used by Owner for acquisition of real property.
- (2) Any payment due under the terms of this Agreement may be withheld pending the receipt and approval by the City of all reports and documents which Owner is required to submit to the City pursuant to the terms of this Agreement or any amendments thereto.
- (3) No payments will be made without evidence of appropriate insurance required by this Agreement. Such evidence must be on file with the City.
- (4) Owner understands and agrees that disbursement requests for funds under this Agreement are only to be requested when the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.

ARTICLE VI **SUBCONTRACTS**

- (a) Owner shall use its best efforts to include a statement in all subcontracts that it executes that the subcontractor shall hold the City harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement to the extent allowed by law.
- (b) If Owner subcontracts, a copy of the executed subcontract must be forwarded to the City within ten (10) days after execution.

ARTICLE VII **CONDITIONS OF SERVICE**

- (a) As a condition of these services, Owner agrees to comply with the HOME Program Final Rule, 24 CFR Part 92, and any Amendments or Notices issued pursuant thereto.
- (b) Owner agrees to comply with the requirements of Executive Orders 11625 and 12432

concerning **Minority Business Enterprise** and **12138 Women's Business Enterprise** which encourage the use of minority and women's business enterprises, to the maximum extent possible, in connection with HOME-funded activities.

(c) Owner agrees to comply with the requirements of the **Uniform Relocation Assistance and Real Property Acquisition Policies Act** of 1970 (URA) (42 U.S.C. 4201-4655) and 49 CFR Part 24. The Owner acknowledges having received the HUD Manual entitled "All the Right Moves: Relocation and Assistance In HUD Programs" and HUD Handbook 1378 and will comply with all requirements contained therein.

(d) Owner agrees to comply with all of the following federal laws, executive orders, and regulations pertaining to fair housing and equal opportunity.

(1) **Title VI of the Civil Rights Act of 1964, As Amended** (42 U.S.C. 2000d) -- pertaining to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin. Its implementing regulations may be found in 28 CFR Part 1.

(2) **Title VIII of the Civil Rights Act of 1968, As Amended the "Fair Housing Act"** (42 U.S.C. 3601) and its implementing regulations at 24 CFR Part 100-115 -- Prohibiting discrimination in the sale or rental of units in the private housing market.

(3) **Equal Opportunity in Housing** (Executive Order 11063, as amended by Executive Order 12259) and implementing regulations at 24 CFR Part 107 -- Prohibiting discrimination in housing or residential property financing related to any federally assisted activity.

(4) **Age Discrimination Act of 1975, As Amended** (42 U.S.C. 6101) and its implementing regulations at 24 CFR Part 146 -- Prohibiting age discrimination in programs receiving federal financial assistance.

(5) **Equal Employment Opportunity**, Executive Order 11246, As Amended and its implementing regulations at 41 CFR Part 60 -- Prohibiting discrimination against any employee or applicant for employment. Provisions to effectuate this prohibition must be included in all construction contracts exceeding \$10,000.

(e) Owner agrees to comply with the requirements of **Section 3 of the Housing and Urban Development Act of 1968** (12 U.S.C. 1701u) -- Requires that, to the greatest extent feasible, opportunities for training and employment arising from HOME funded projects will be provided to low-income persons residing in the program service area; and, to the greatest extent feasible, contracts for work to be performed in connection with HOME funded projects will be awarded to business concerns that are located in, or owned by persons residing in the program service area.

(f) Owner will ensure that all units in a project assisted with HOME funds comply with the **Lead Based Paint Poisoning Prevention Act** (42 U.S.C. 4821, et) and its implementing regulations at 24

CFR 35.

- (g) Owner agrees to comply with the **Federal Labor Standards** Provisions, as described in HUD Handbook 1344-1 (Federal Labor Standards Compliance in Housing and Community Development Programs).
- (h) Owner agrees to comply with the requirements of 24 CFR part 24 regarding **debarment and suspension**.

ARTICLE VIII

TERM OF AGREEMENT

This Agreement shall be effective upon execution by both parties and shall terminate at the conclusion of the 5 year period of affordability as specified in 24 CFR 92.252 (affordable rental housing).

ARTICLE IX

TERMINATION

The City and Owner agree that this Agreement may be terminated by the City, in whole or in part, for cause (as defined in Article XXVI herein and in accordance with the provisions of 24 CFR Part 85.43) or for convenience (as defined in Article XXVII and in accordance with the provisions of 24 CFR, Part 85.44). A written notification shall be required at least thirty (30) days prior to the effective date of such termination, and shall include the reason for the termination (if for cause), the effective date, and in the case of a partial termination, the actual portion(s) to be terminated.

ARTICLE X

AMENDMENTS

Any alterations, variations, modifications or waivers of any provisions of this Agreement, including an increased allocation of funds, shall only be valid when they have been reduced to writing and signed by the City and Owner.

ARTICLE XI

CONFLICT OF INTEREST

- (a) Owner shall comply with the standards contained within 24 CFR Part 92.356 which states that no owner, developer or sponsor of a project assisted with HOME funds (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private-for-profit or non-profit, may occupy a HOME-assisted affordable housing unit in a project. This provision does not apply to an

employee or agent of the owner or developer of a rental housing project who occupies a HOME-assisted unit as the project manager or maintenance worker. Exceptions may be granted by the City in accordance with 24 CFR Part 92.356(f)(2).

(b) Owner shall disclose any possible conflicts of interest or apparent improprieties of any party that is covered by the above standards. Owner shall make such disclosure in writing to the City immediately upon Owner's discovery of such possible conflict. The City will then render an opinion which shall be binding on all parties.

(c) Related Parties. Owner shall report to the City the name, purpose, and any other relevant information in connection with any related-party transaction. This includes, but is not limited to, a for-profit subsidiary or affiliate organization, an organization with overlapping boards of directors, or an organization for which an officer of the Owner is responsible for appointing memberships. Owner shall report this information to the City upon forming the relationship or, if already formed, shall report it immediately. Any supplemental information shall be reported to the City in the required Annual Report.

ARTICLE XII

INDEMNIFICATION AND INSURANCE

Owner, through an insurance carrier, shall indemnify and hold harmless the City from any and all claims, liabilities, losses, and causes of action which may arise out of an act, omission, negligence or misconduct on the part of Owner or any of its agents, servants, employees, contractors, patrons, guests, clients, or invitees. Owner, through its insurance carrier, shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits in the name of the City, when applicable, and shall pay all costs and judgments which may issue thereon.

Owner shall maintain during the term of this Agreement, the insurance specified below.

(1) General Liability: \$500,000 combined single limit for bodily injury and property damage, for each occurrence.

(2) Contractual Liability: the policy must include coverage to cover the above indemnification.

(3) Automobile and vehicle coverage in the amount of \$500,000 per occurrence shall be required when the use of automobiles and other vehicles are involved in any way in the performance of the Agreement, including non-owned automobile coverage.

(4) Workers' Compensation Coverage as per statutory limits of the State of Florida.

(5) Builders Risk/Comprehensive Fire and Hazard Insurance: Owner shall deliver to the City the

original policy of Builder's Risk and Comprehensive Fire and Hazard Insurance in completed value form with extended coverage in the amount of the full insurable value of the Project upon completion of construction, issued by a company satisfactory to the City.

(6) **Flood Insurance:** If the floor grade of the first level of the building is determined to be below the base floodplain elevation required by the Federal Emergency Management Agency (FEMA) of 8 feet above NGVD, Owner shall deliver to the City evidence satisfactory to the City that the premises are covered by flood insurance supplied by the Federal Insurance Administration to the maximum amount available, all as provided in the Flood Disaster Protection Act of 1973, as amended, together with appropriate endorsement. Owner agrees that the City shall have the right to take any action necessary to continue said insurance in full force.

Owner shall submit to the City an ORIGINAL Certificate of Insurance for the above coverage with the City named as an additional insured, to the extent of its insurable interest on all policies required herein. All insurance coverage shall be approved by the City's Risk Manager **prior** to the release of any funds under this Agreement. Further, in the event evidence of such insurance is not forwarded to the City's Risk Manager within thirty (30) days after the execution of this Agreement, this Agreement shall become null and void, and the City shall have no obligation under the terms thereof unless a written extension of this thirty (30) day requirement is secured from the Risk Manager.

ARTICLE XIII

REPORTS

(1) **Progress Reports.** Owner agrees to submit monthly progress reports to the City, describing the status of the Project and achievement of objectives as provided herein and in the Scope of Services (Exhibit A) and Budget (Exhibit B), attached hereto. The progress reports shall be submitted no later than 10 days after the end of each month until such time as all funds are expended or, for rental projects, until the project is fully occupied.

It will be the responsibility of Owner to notify the City in writing, of any actions, law, or event, that will impede or hinder the completion projects and activities as provided in this Agreement. After such notification, the City will take whatever actions it deems appropriate to ensure the success of the program.

(2) **Tenant and Rent Schedule Certification.**

a. Owner shall submit to the City for approval the proposed rents for the HOME units and, if applicable, the monthly allowances for utilities and services to be paid by the tenant. The City shall approve submitted rents if such rents comply with applicable Federal standards, or if HUD has approved same.

b. Owner shall provide the City with the initial tenant list, and any and all subsequent updates, amendments and modifications thereto, with documentation for all tenants in the HOME

units confirming family size, income, financial classification, ethnicity, HOME rents charged and other information the City may require to fulfill its reporting requirements to HUD. This report will continue to be required for the full period of affordability hereunder beginning on the date of issuance of a Final Certification of Completion for the Project. The initial report shall be due within thirty (30) days of project lease-up.

c. Annually, Owner shall deliver to the City's Housing and Community Development Division, by October 10th of each calendar year, its signed report in form and substance acceptable to the City, to include names of tenants, unit type, family size and income, rents charged, and occupancy/vacancy factor of each unit for the prior fiscal year (October 1st through September 30th). The report will continued to be required for the full 5-year period of affordability hereunder beginning on the date of issuance of a Final Certificate of Completion for the project.

(3) Other reports as may be required by the City to demonstrate compliance with any of the terms of this Agreement.

If the required reports described above are not submitted to the City or are not completed in the manner acceptable to the City, the City may withhold further payments until they are completed or may take any other action as the City may deem appropriate.

ARTICLE XIV

AUDIT AND INSPECTIONS

At any time during normal business hours and as often as the City administration and/or the Comptroller of the Currency of the United States may deem necessary, there shall be made available to the City administration and/or representatives of the Comptroller to audit, examine and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. If during the course of a monitoring visit, the City determines that any payments made to Owner do not constitute an allowable expenditure, the City will have the right to deduct those amounts from their related invoices. Owner must maintain records necessary to document compliance with the provisions of this Agreement.

ARTICLE XV

COMPLIANCE WITH LOCAL STATE AND FEDERAL REGULATIONS

Owner agrees to comply with all applicable Federal regulations as they may apply to program administration. Additionally, Owner will comply with all State and local laws and ordinances hereto applicable.

ARTICLE XVI

ADDITIONAL CONDITIONS

(a) Title and paragraph headings are for convenient reference and are not a part of this Agreement.

(b) In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached document, the terms in this Agreement shall rule.

(c) No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

ARTICLE XVII **ACCESS TO RECORDS**

Owner, agrees to allow access during normal business hours to all financial records to authorized Federal, State or City representatives and agrees to provide such assistance as may be necessary to facilitate financial audit by any of these representatives when deemed necessary to insure compliance with applicable accounting and financial standards. Owner shall allow access during normal business hours to all other records, forms, files, and documents which have been generated in performance of this Agreement and to those personnel as may be designated by the City.

ARTICLE XVIII **SEVERABILITY OF PROVISIONS**

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

ARTICLE XIX **PROJECT PUBLICITY**

Owner agrees that any news release or other type of publicity pertaining to the project as stated herein must recognize the City as the recipient funded by the United States Department of Housing and Urban Development, and that the Program is administered by the City's Housing and Community Development Division, which is the entity providing funds for the Project.

ARTICLE XX **DRUG-FREE WORKPLACE**

Owner agrees to administer in good faith, a policy to ensure that it complies with the Drug-Free Workplace Act requirements under 24 CFR Part 24, Subpart F, and will ensure that the workplace is free from the unlawful manufacture, distribution, dispensing, possession or use of drugs or alcohol.

ARTICLE XXI **NONDELEGABLE**

Owner agrees that the obligations undertaken pursuant to this Agreement shall not be delegated or assigned to any other person or firm unless the City shall first consent in writing to the

performance or assignment of such service or any part thereof by another person or firm.

ARTICLE XXII
SUCCESSORS AND ASSIGNS

Owner agrees that this Agreement shall be binding upon the parties herein, their heirs, executors, legal representatives, successors, and assigns.

ARTICLE XXIII
INDEPENDENT CONTRACTOR

Owner and its employees and agents shall be deemed to be independent contractors and not agents or employees of the City, and shall not attain any rights or benefits under the Civil Service or Pension Ordinances of the City, or any rights generally afforded classified or unclassified employees; further he/she shall not be deemed entitled to the Florida Workers' Compensation benefits as an employee of the City.

ARTICLE XXIV
ASSIGNMENT

This Agreement may not be assigned or transferred by Owner without the prior written consent of the City thereto, which consent shall not be unreasonably withheld. It shall be deemed a default of this Agreement in the event that Owner does not strictly comply with the procedures established herein for obtaining City consent to assignment or transfer as defined by this Paragraph. In the event such consent is not obtained, in the manner prescribed herein, the City shall be entitled to declare a default, cancel this Agreement, and resort to its rights and remedies against the defaulting party. In the event the Provider transfers an interest of more than one (1%) percent ownership in its stock by pledge, sale, or otherwise; or if Owner makes an assignment for the benefit of its creditors, or uses this Agreement as security or collateral for any loan; or if the Provider is involved in any bulk transfer of its business or assets, then in that event each of the foregoing actions shall also be deemed an assignment of this Agreement and shall require the City's prior written consent. A merger, dissolution, consolidation, conversion, liquidation or appointment of a receivership for Owner, shall be deemed an assignment of this Agreement and will require the prior written consent of the City thereto.

ARTICLE XXV
TERMINATION FOR CAUSE

The City may place Owner in default of this Agreement and may suspend or terminate this Agreement, in whole or in part, for cause, as prescribed in Article X herein. "Cause" shall include, but not be limited to, the following:

- (a) Owner's failure to (i) diligently pursue additional Project financing and to close on the acquisition of the Project within 60 days from the date of execution of this Agreement; or (ii)

commence work within thirty (30) days from the date of issuance of the Notice to Proceed; or (iii) diligently pursue construction and timely complete the project by securing a Final Certificate of Completion within twelve (12) months from the date of execution of this Agreement.

Work shall be considered to have commenced and be in active progress when, in the sole opinion of the City, a full complement of workers and equipment is present at the site to diligently incorporate materials and equipment into the structure throughout the day on each full working day, weather permitting.

- (b) Owner's failure to comply with applicable building, fire, life safety, housing and zoning laws, rules, regulations and codes.
- (c) Owner's default on any of the terms and conditions of the note, mortgage, or other loan document executed by Owner in favor of a Lender. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They must be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure.
- (d) Owner's failure to maintain the insurance required by the City and/or Lender.
- (e) Failure to comply and/or perform in accordance with any of the terms and conditions of this Agreement, or any Federal, State or local regulation.
- (f) Submitting any required report to the City which is late, incorrect, or incomplete in any material respect after notice and reasonable opportunity to cure, as set forth in subparagraph (h) hereof, has been given by the City to Owner.
- (g) Implementation of this Agreement, for any reason is rendered impossible or infeasible.
- (h) Failure to respond in writing within thirty (30) days of notice of same from City to any concerns raised by the City, including providing substantiating documentation when requested by the City.
- (i) Any evidence of fraud, waste or mismanagement as determined by the City's monitoring of project(s) under this Agreement, or any violation of applicable HUD rules and regulations.
- (j) Owner's insolvency or bankruptcy.
- (k) An assignment or transfer of this Agreement or any interest therein which does not comply with the procedures set forth in Article XXV herein.
- (l) Claims of lien not satisfied or bonded-off, in accordance with Florida Statutes, within 60 days from the date of filing of any such lien.
- (m) Failure to comply and/or perform in accordance with the affordability requirements, and/or an

unauthorized transfer of title of its HOME projects.

If the default complained of is not fully and satisfactorily cured within thirty (30) days of receipt of such notice of default to Owner, at the expiration of said thirty (30) day period (or such additional period of time, as permitted by the City, in its sole discretion, as required to cure such default, in the event Owner is diligently pursuing curative efforts) this Agreement may, at the City's sole option and discretion, be deemed automatically canceled and terminated, and the City fully discharged from any and all liabilities, duties and terms arising out of, or accruing by virtue of this Agreement. In the event of a default for cause, the City may, at its option, avail itself of any and all remedies pursuant to 24 CFR Part 85.43, as amended from time to time, including suspension, in whole or in part, of Owner's grant award(s); recapture of the Funds, as set forth herein; and any other remedies that may be legally available.

ARTICLE XXVI

TERMINATION FOR CONVENIENCE

Notwithstanding Article XXVI above, Owner herein consents that the City may terminate this Agreement, in whole or in part, for convenience, as set forth in 24 CFR Part 85.44.

ARTICLE XXVII

ADDITIONAL REMEDIES

In the event of a default and termination for cause, the City shall be entitled to bring any and all legal and/or equitable actions which it deems to be in its best interest, in Miami-Dade County, Florida, in order to enforce the City's rights and remedies against the defaulting party. The City shall be entitled to recover all costs of such actions, including reasonable attorney's fees. To the extent allowed by law, the defaulting party waives its right to jury trial and its right to bring permissive counterclaims against the City in any such action.

ARTICLE XXVIII

MAINTENANCE AND RETENTION OF RECORDS

Owner agrees that it will maintain all records required pursuant to 24 CFR Part 92.508, in an orderly fashion in a readily accessible, permanent and secure location, and that it will prepare and submit all reports necessary to assist the City in meeting record keeping and reporting requirements thereunder.

- (1) Records shall be maintained for a period of **five years** after the closeout of funds under this Agreement except as provided herein (2), (3) and (4).
- (2) If any litigation, claim, negotiation, audit or other action has been started before the regular expiration date, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular period specified in paragraph (1), whichever is later;
- (3) **Records regarding project requirements that apply for the duration of the period of**

affordability, as well as the written agreement and inspection and monitoring reports must be retained for five years after the affordability period terminates;

- (4) Records covering displacements and acquisition must be retained for at least five years after the date by which the persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR Part 92.353.

ARTICLE XXIX LIMITATION OF LIABILITY

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$309,469. Owner hereby expresses its willingness to enter into this Agreement with Owner's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$309,469. Accordingly, and notwithstanding any other term or condition of this Agreement, Owner hereby agrees that the City shall not be liable to Owner for damages in an amount in excess of \$309,469, for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Florida Statutes, Section 768.28.

ARTICLE XXX VENUE

This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

ARTICLE XXXI ADDITIONAL CONDITIONS AND COMPENSATION

It is expressly understood and agreed by the parties hereto that monies contemplated by this Agreement to be used for the Funds, originated from grants of federal HOME Investment Partnerships Program funds, and must be implemented with all of the applicable rules and regulation of the U.S. Department of Housing and Urban Development. It is expressly understood and agreed that in the event of curtailment or non-production of said Federal grant funds, that the financial sources necessary to continue to pay the Owner the Funds will not be available and that this Agreement will thereby terminate effective as of the time it is determined that said funds are no longer available. In the event of such determination, Owner agrees that it will not look to, nor seek to hold liable, the City or any individual member of the City Commission thereof, personally for the performance of this Agreement and all parties hereto shall be released from further liability each to the other under the terms of this Agreement.

ARTICLE XXXII
ACCESSIBILITY LAWS COMPLIANCE

Owner agrees to adhere to and be governed by the following accessibility requirements:

- (a) **Architectural Barriers Act of 1968**, As Amended (42 U.S.C. 4151) and its implementing regulations at 35 CFR Part 107 -- Public buildings and conveyances financed with federal funds must be designed, constructed, or altered to provide accessibility to the physically handicapped.
- (b) **Section 504 of the Rehabilitation Act of 1973** (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8 -- Prohibits discrimination in federally assisted programs on the basis of handicap and imposes requirements to ensure that "qualified individuals with handicaps" have access to programs and activities that receive federal funds.
- (c) **Title VIII of the Civil Rights Act of 1968, As Amended the "Fair Housing Act"** (42 U.S.C. 3601) and its implementing regulations at 24 CFR Part 100-115.

Owner must complete and submit the City's Disability Non-Discrimination Affidavit (Affidavit), a copy of which is attached hereto and incorporated herein as Exhibit C. In the event Owner fails to execute the City's Affidavit, or is found to be in non-compliance with the provisions of the Affidavit, the City may impose such sanctions as it may determine to be appropriate, including but not limited to, withholding of payments to Owner under the Agreement until compliance and/or cancellation, termination or suspension of the Agreement in whole or in part. In the event the City cancels or terminates the Agreement pursuant to this Article, Owner shall not be relieved of liability to the City for damages sustained by the City by virtue of Owner's breach of the Agreement.

ARTICLE XXXIII
NOTICES

All notices shall be sent to the parties at the following addresses:

If to the City:	City of Miami Beach 1700 Convention Center Drive, 3rd Floor Miami Beach, FL 33139 Attn: (1) City Attorney's Office and (2) Housing and Community Development Division Director
If to Owner:	Maria Pellerin Barcus Carrfour Supportive Housing 155 South Miami Avenue Miami, Florida 33130

or to such address and to the attention of such other person as the City or Owner may from time to time designate by written notice to the other.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized official(s) on the day and date first above indicated.

CARRFOUR SUPPORTIVE HOUSING
a Florida not-for-profit corporation

ATTEST:

Authorized Signatory

Secretary

Printed Name and Title
of Authorized Signatory

ATTEST:

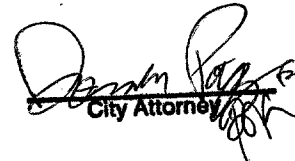
CITY OF MIAMI BEACH
a Florida Municipal corporation

City Clerk

Mayor

F:\NEIGHSG-CD\SUSAN\CARRFOUR\530 MERIDIAN_AGREEMENT.DOC

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

9/5/03

Date

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES

1. Address of Project: 530 Meridian Avenue
Miami Beach, FL 33139

2. Legal Description:

**Lot 4, Block 74, Ocean Beach Addition No. Three, as recorded in Plat Book 2, Page 81,
of the Public Records of Miami-Dade County, Florida.**

3. Building and Site Characteristics

Carrfour Supportive Housing (Carrfour) submitted an application for \$350,000 in HOME Program funds to be used toward the rehabilitation the property located at 530 Meridian Avenue, Miami Beach. On June 2001, Carrfour acquired the property for \$1,650,000 utilizing funds provided by the Federal Home Loan Bank and a purchase money mortgage. In addition, Carrfour has secured \$1,000,000 from the Florida Housing Finance Corporation, \$604,395 from the Miami-Dade County Documentary Surtax Program, and \$395,605 in Miami-Dade HOME Investment Partnerships Program for the rehabilitation of the building. The total cost of the project is estimated to be \$3,989,469, or \$275 per square foot. This three-story building is located one-half block north of Fifth Street. The building has a total area of 14,531 square feet. The property consists of a 76-unit building that will be reconfigured into 71 Single Room Occupancy (SRO)-units. Of these units, 55 units will be provided as transitional housing for formerly homeless individuals participating in the Miami-Dade County Continuum of Care, 15 units will be provided as affordable rental units for income-eligible residents, and one unit will be provided as the building manager's unit.

On June 7, 2002, the City's Board of Adjustment granted Carrfour a one-year variance for 530 Meridian Avenue (File No. 2872) to waive 159 sq. ft. of the minimum required hotel room size of 300 sq. ft. in order to substantially remodel an existing hotel with rooms ranging in size from 141 sq. ft. to 171 sq. ft. On May 21, 2003, Carrfour requested a six-month extension of the variance. Carrfour's request is scheduled to be heard by the Board of Adjustment during the meeting of July 25, 2003.

A Phase 1 Environment Review was conducted to determine possible petroleum product contamination, and the presence of asbestos or lead paint. As a requirement of funding, the Owner will mitigate any hazardous conditions identified in the Phase 1 report. The Property has been appraised at \$1,650,000.

4. Upon completion of the Project, 55 units will be HOME-assisted and carry restricted rent and tenant income restrictions for the duration of the 5-year affordability period.

5. Proposed Elements of Construction

The proposed scope of work, based on a preliminary evaluation, includes the following exterior rehabilitation: full exterior historic renovation including new roof, new windows and doors, accessibility improvements and patio rehabilitation. The interior improvements will consists of new plumbing and electrical systems, installation of central air-conditioning system, new doors, appliances, plumbing fixtures, floor finishes, installation of wheelchair lift, and historic restoration of the lobby.

On May 9, 2003, the City issued a 30-day placard declaring the building unfit for human habitation. Subsequently, Carrfour vacated the building. In the process, Carrfour informed the City that up to eight of the residents of 530 Meridian may be eligible for relocation benefits in accordance with the Uniform Relocation

Assistance and Real Property Acquisition Policies Act of 1970 (URA). Carrfour has indicated that it intends to utilize a portion of the HOME Program funds previously provided to them by Miami-Dade County for the cost associated with relocation benefits.

6. The following procedures must be followed, prior to the commencement of work on the project:
 - (a) Each contractor and/or subcontractor must be found to be eligible to work on a federally funded project. The names submitted will be checked against the monthly listing "Consolidated List of Debarred, Suspended & Ineligible Contractors and Grantees" published by the Federal Government.
 - (b) Since the Building is more than 50 years old, Owner's Architect or Engineer (1) must obtain and submit to the City a letter indicating that the plans for the project have been reviewed by the State Historic Preservation Officer (SHPO) and that the proposed rehabilitation is acceptable to that office, and (2) must submit a copy of the 50 year re-certification for the building.
 - (c) A set of final approved plans and specifications for the project approved by the City's Building Department must be submitted to the Housing and Community Development Division of the City's Neighborhood Services Department.
 - (d) Building permits must be obtained as required by applicable City Ordinance. Also, any other necessary permits and applicable approvals from any other governmental authorities must be obtained, if required.
 - (e) A copy of the contract between Owner and a licensed General Contractor must be submitted to the City which includes commencement and completion dates, contract amount, scope of work, Federal Labor Standards Provisions (HUD Form 4010, if applicable), and applicable federal regulations and standards.
 - (f) The General Contractor selected must submit evidence prior to the commencement of work, satisfactory to the City's Insurance Manager, of the following insurance coverage: 1) Liability insurance against claims arising out of accident or occurrence on the property, in a minimum amount of \$1,000,000. The City of Miami Beach must be named as additional insured in the policy; and 2) Proof of worker's compensation coverage; and such other forms of insurance as the City's Risk Manager may reasonably require.
 - (g) A revised cost breakdown, to include direct and indirect costs of the proposed work, based on the actual contract price.

When the above requirements have been met, the Housing and Community Development Division and the Building Department will jointly issue a "Notice to Proceed" on the project. If Owner or contractor does not fully comply, or if any work commences prior to the issuance of the Notice to Proceed, then such work may, at the discretion of the City, constitute a default under this Agreement.

Exception: Subject to the prior approval of the Housing and Community Development Division and the Building Department, emergency repairs can be undertaken on the Project.

7. Owner's General Contractor shall be responsible for compliance with all pollution and asbestos control standards of the concerned governmental agencies. It shall be the Contractor's responsibility to obtain required inspections from these agencies.

8. Federal regulations require that all tenants in housing rehabilitated with federal funds, be provided with information on the following: that the property may contain lead-based paint; of the hazards, symptoms and treatment for ingestion of lead-based paint; of the precautions to be taken; of the availability of blood level screening for children under seven years of age; and that in the event lead-based paint is found in the property, appropriate abatement procedures must be undertaken by Owner. Copies of a brochure will be provided to the Owner by the City. This information must be provided by Owner to each tenant, and Owner must retain evidence of having provided this notification to the tenant in a file for the life of this Agreement.

9. After the property has been rehabilitated, it must conform to the applicable codes, ordinances and statutes of the City and of Miami-Dade County, including, but not limited to, the South Florida Building Code, the Zoning Ordinance, and the Property Maintenance Standards.

10. Owner agrees that it will develop an affirmative marketing plan, with concurrence from the City, that will comply with the City's adopted affirmative marketing procedures and requirements for projects containing 5 or more HOME-assisted housing units. Owner shall implement an affirmative marketing program that provides information to, and attracts eligible persons in the housing market area to the available housing receiving assistance from HOME funds, without regard to race, color, national origin, religion, sex, sexual orientation, handicap, marital status, familial status, or age. The affirmative marketing requirements and procedures adopted by Owner shall include, but not necessarily be limited to, the following:

a. Methods to promote greater choice of housing opportunities;

b. Practices for marketing vacant units that will affirmatively further fair housing (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);

c. Special outreach efforts to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach and advertising efforts (e.g., use of community organizations including, but not limited to: places of worship, employment centers, community centers, fair housing groups, housing counseling agencies, community development corporations, and the Housing Authority of the City of Miami Beach). The City shall provide a list of potential outreach sources to Owner;

d. Maintenance of records describing actions taken to affirmatively market units and records to assess the results of these actions, including newspaper clippings of all vacant units advertised, copies of brochures, pamphlets, and articles used in advertising units, lists of community organizations used in disseminating information, records of referrals and the results of these referrals, and documentation of any other special outreach activities conducted.

e. A certification that states that the Owner agrees to adhere to any corrective actions the City requires if affirmative marketing requirements are not met.

11. Project Development Schedule

Commence Construction	September 2003
Complete Construction	September 2004
Lease-up	October 2004

EXHIBIT B
BUDGET

SOURCES AND USES OF FUNDS

516 15th STREET

ESTIMATED SOURCES OF FUNDS

Purchase Money Mortgage	\$1,180,000
Federal Home Loan Bank	500,000
Florida Housing Finance Corporation	1,000,000
Miami-Dade County Documentary Surtax Program	604,395
Miami-Dade HOME Investment Partnerships Program	395,605
City of Miami Beach HOME Program	<u>309,469</u>
	\$3,989,469

USES OF FUNDS

ACQUISITION OF PROPERTY	\$1,650,000
REHABILITATION	1,662,000
PRE-DEVELOPMENT COSTS	343,594
FINANCIAL COST	74,406
DEVELOPER'S FEE	<u>259,469</u>
	\$3,989,469

EXHIBIT C

DISABILITY DISCRIMINATION AFFIDAVIT

DISABILITY DISCRIMINATION AFFIDAVIT

CONTRACT REFERENCE: _____
Name of firm, corporation, or organization

AUTHORIZED AGENT COMPLETING AFFIDAVIT: _____

POSITION: _____ PHONE NUMBER: _____

I, _____, being duly first sworn state: _____

That the above named firm, corporation or organization is in compliance with and agrees to continue to comply with, and assure that any subcontractor, or third party contractor under this project complies with all applicable requirements of the laws listed below including, but not limited to, those provisions pertaining to employment, provision of programs and services, transportation, communications, access to facilities, renovations, and new construction.

The Americans with Disabilities Act of 1990 (ADA): Pub. L. 101-336, 104 Stat 327, 42 U.S.C. 12101-12213 and 547 U.S.C. Sections 225 and 611 including Title I, Employment; Title II, Public Services; Title III, Public Accommodations and Services Operated by Private Entities; Title IV, Telecommunications; and Title V, Miscellaneous Provisions.

The Rehabilitation Act of 1973: 29 U.S.C. Section 794.

The Federal Transit Act, as amended: 49 U.S.C. Section 1612.

The Fair Housing Act as amended: 42 U.S.C. Section 3601-3631.

Signature (Date)

SUBSCRIBED AND SWORN TO (or affirmed) before me _____
(Date)

by _____
(Affiant)

He/She is personally known to me or has presented _____ as identification.
(Type of identification)

(Signature of Notary) (Serial Number)

(Print or Stamp Name of Notary) (Expiration Date)

Notary Public _____ (State) Notary Seal

The City of Miami Beach will not award a contract to any firm, corporation or organization that fails to complete and submit this Affidavit with the firm, corporation or organization's bid or proposal or fails to have this Affidavit on file with the City of Miami Beach.

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A Resolution that Accepts the Recommendation of the City Manager Pertaining to the Ranking of Proposals Received Pursuant to Request for Proposals (RFP) No. 35-02/03, for the Purchase of a Parking Management Software; Authorizing the Administration to Enter Into Negotiations with the Firm of T-2 Systems for the Purchase of a Parking Management Software; And if Negotiations are Successful, Authorize the Mayor and City Clerk to Execute an Agreement with T-2 Systems; Further Appropriating \$184,000 from Parking Revenue Bond Fund 481 and the Establishment of a Work Order for the Project.

Issue:

Shall the City Commission accept the City Manager's ranking of firms; shall the City Commission authorize negotiations; shall the City Commission authorize the Mayor and City Clerk to execute an agreement; and shall the City Commission appropriate \$184,000 from the Parking Revenue Bond Fund 481?

Item Summary/Recommendation:

The existing parking software is outdated and lacks the capabilities to meet the needs and expectations that are commonplace in today's "electronic" business world. In the City's continued effort to improve [parking] services to residents and visitors alike, a state-of-the-art parking permit management system (software/hardware) RFP was issued. The goal is to provide a wide range of parking services via the Internet. This would include: sale/renewal of residential and business permits, access cards, parking smart cards, meter rentals, and a number of other services. In order to meet this goal, the first step is to procure a web enabled parking management software system.

On July 23, 2003, the Evaluation Committee (the "Committee") met for the first time and short-listed three (3) of the four firms for presentations. The three firms selected for presentations were Cardinal Tracking, EDC and T-2 Systems. However, the firm of EDC declined the invitation to present their proposal before the Committee because firms were required to provide a residency confirmation system, currently EDC does not have a system to positively identify true Miami Beach residency.

On August 20, 2003, Cardinal Tracking and T-2 Systems were given one hour presentations which included demonstration of software, question and answers.

Upon completion of presentations and question and answer sessions, the Committee deliberated and ranked T-2 Systems as the top-ranked firm and Cardinal Tracking as second-ranked firm.

ADOPT THE RESOLUTION.

Advisory Board Recommendation:

N/A.

Financial Information:

Source of Funds:		Amount	Account	Approved
<div style="border: 1px solid black; width: 80px; height: 50px; margin: 0 auto;"></div> Finance Dept.	1	\$184,000	Parking Revenue Bond Fund 481	
	2			
	3			
	4			
	Total			

City Clerk's Office Legislative Tracking:

Saul Frances, ext. 6483

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL <i>[Signature]</i> SF <i>[Signature]</i>	CMC <i>[Signature]</i>	JMG <i>[Signature]</i>

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AGENDA ITEM

C7F

DATE

9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF PROPOSALS RECEIVED PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 35-02/03, FOR THE PURCHASE OF A PARKING MANAGEMENT SOFTWARE; AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH THE FIRM OF T-2 SYSTEMS FOR THE PURCHASE OF A PARKING MANAGEMENT SOFTWARE; AND IF NEGOTIATIONS ARE SUCCESSFUL, AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH T-2 SYSTEMS; FURTHER APPROPRIATING \$184,000 FROM PARKING REVENUE BOND FUND 481 AND THE ESTABLISHMENT OF A WORK ORDER FOR THE PROJECT.**

FUNDING:

\$184,000 Funds are available from Parking Revenue Bond Fund 481 for the purpose of purchasing and installing a parking management software. The following is breakdown of the funds to be expended:

Parking Management Software	\$153,000
Hardware (Server)	\$ 25,000
Contingency (20%)	<u>\$ 31,000</u>
	\$184,000

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS:

The existing parking software is outdated and lacks the capabilities to meet the needs and expectations that are commonplace in today's "electronic" business world. In the City's continued effort to improve [parking] services to residents and visitors alike, a state-of-the-art parking permit management system (software/hardware) RFP was issued. One of the

Administration's goals is to enhance e-government services. The goal is to provide a wide range of parking services via the Internet. This would include: sale/renewal of residential and business permits, access cards, parking smart cards, meter rentals, and a number of other services. In order to meet this goal, the first step is to procure a web enabled parking management software system.

The Administration contracted Bier and Associates, Inc, as a consultant, to provide technical expertise in parking industry business solutions. The Parking Department in conjunction with the Information Technology Department worked closely in the selection of the consultant and development of the scope of work and specifications. Specifically, Bier and Associates conducted a Needs Analysis of the Parking Department's Customer Service operations, including software/hardware capabilities. Clearly, the technology currently in place has served its purpose; however, it is not suited to meet future demands. Bier and Associates developed scope of work, technical specifications, system requirements, and assessed the numerous software products currently on the market in order to formulate a comprehensive package that will address all of the Department's needs. The following are the general system requirements:

- Reduce our workload
- Help better manage our communications with customers
- Improve/Enhance our permit sales
- Reduce office traffic by allowing customers to apply for, as well as purchase, permits via the Internet
- Help us obtain useful reports for system analysis, problem resolution, overall efficiency, etc.
- Enhance our image to our customers
- Improve the planning and management of special events, the allocation of departmental resources, and financial transactions and invoices associated with special events
- Save time by incorporating a relational database that contains permits, vehicles, and customers (i.e. permit holders, persons responsible for permits, etc.)

Provide a better system for tracking: vehicles that have been towed or have been approved for tow, the status/location of towed vehicles, as well as the fine accrual while in impound

RFP Process:

At its regular meeting on February 26, 2002, the Mayor and City Commission authorized the issuance of a Request for Proposals (RFP) for the purchase of a Parking Management Software System. On March 25, 2003, RFP 35-02/03 was issued. On April 30, 2003, proposals from the following four (4) firms were received in Procurement: EDC Corp, Cardinal Tracking, Iparq and T-2 Systems.

Letter to Commission (LTC) No. 127-2003, appointed the following individuals to serve as members of the evaluation committee:

Vivian Guzman, CMB Neighborhood Services and Chair of Committee
William St. Laurent, Resident
Gabriela Doria-Simpson, Transportation and Parking Committee
Kenny Wright, CMB Parking Dept.
James Stamos, CMB Parking Dept.
James Sutter, CMB Internal Auditing
Richard Zuech, CMB I.T. Department

On July 23, 2003, the Evaluation Committee (the "Committee") met for the first time and short-listed three (3) of the four firms for presentations. The three firms selected for presentations were Cardinal Tracking, EDC and T-2 Systems. However, the firm of EDC declined the invitation to present their proposal before the Committee because firms were required to provide a residency confirmation system, currently EDC does not have a system to positively identify true Miami Beach residency.

On August 20, 2003, Cardinal Tracking and T-2 Systems were given one hour presentations which included demonstration of software, question and answers.

Upon completion of presentations and question and answer sessions, the Committee deliberated and ranked T-2 Systems as the top-ranked firm and Cardinal Tracking as second-ranked firm. Said ranking was based on the following weighted factors and criteria:

<u>Factors:</u>	<u>Weight</u>
Experience	20%
Compliance with Technical Specifications	30%
Technical Support	15%
Cost	25%
Financial Stability	10%

The Committee scored and ranked each firm as follows:

T-2 Systems	592 points (7 first place votes)
Cardinal Tracking	544 points (7 second place votes)

CONCLUSION:

The Administration recommends that the Mayor and City Commission authorize the Administration to enter into negotiations with T-2 Systems for the purchase of a parking management software, and if negotiations are successful, authorize the Mayor and City Clerk to execute an agreement with T-2 Systems and further approve an appropriation in the amount of \$184,000 from Parking Revenue Bond Fund 481 and the establishment of a work order.


CMC:RS:GL;SF
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RESOLUTION TO BE SUBMITTED

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A Resolution Ratifying the City Manager's Exercise of the Authority Granted to Him by the City Commission on the Following Projects: 1) Increase the Standing Order with Nextel Communications for Citywide Radio and Cellular Telephone Services, in the Amount of \$65,000; and 2) Approval and Execution of an Agreement with Florida Department of Transportation to Receive Annual Funding of \$150,000 for Landscape Maintenance of the Julia Tuttle Causeway

Issue:

Shall the City Commission Ratify the City Manager's actions?

Item Summary/Recommendation:

The Mayor and City Commission at its July 20, 2003 meeting, adopted Resolution No. 2003-25295, which authorized the City Manager, or his designee, be authorized to sign all contracts, agreements, purchase orders, change orders, and grant applications; renew any existing contracts, for an appropriate period of time; terminate existing contracts, as needed, from the last Commission meeting on July 30, 2003, until the first regularly scheduled Commission meeting in September 2003, subject to ratification by the City Commission at its first regularly scheduled meeting in September 2003.

The City Manager exercised the authority granted to him by the City Commission on two separate projects that are detailed below:

1. The City Manager signed a Memorandum of Agreement on behalf of the City Commission with the Florida Department of Transportation on August 29, 2003. The Agreement was a renewal of an existing contract the City has in place with FDOT for the ongoing landscape maintenance of the Julia Tuttle Causeway for which the City is paid \$150,000 annually.

2. The City's Information Technology (IT) Department requested a change order increase in the amount of \$65,000, which brought the total cost to \$185,000. The City Manager authorized the increase in order to ensure that the City's radio and cellular telephone services were not interrupted. Therefore, it is requested that the City Commission ratify the City Manager's approval to increase Nextel's standing order to provide radio and cellular telephone services.

Advisory Board Recommendation:

N/A.

Financial Information:

Source of Funds:		Amount	Account	Approved
<div style="border: 1px solid black; width: 80px; height: 50px; margin: 0 auto;"></div> Finance Dept.	1			
	2			
	3			
	4			
	Total			

City Clerk's Office Legislative Tracking:

Gus Lopez, ext. 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL	RCM	JMG

AGENDA ITEM C7G
DATE 9-10-03

CITY OF MIAMI BEACH

CITY HALL, 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RATIFYING THE FOLLOWING CITY MANAGER ACTIONS: 1) APPROVAL TO INCREASE THE STANDING ORDER WITH NEXTEL COMMUNICATIONS FOR CITYWIDE RADIO AND CELLULAR TELEPHONE SERVICES, IN THE AMOUNT OF \$65,000; AND 2) APPROVAL AND EXECUTION OF AN AGREEMENT WITH FLORIDA DEPARTMENT OF TRANSPORTATION TO RECEIVE ANNUAL FUNDING OF \$150,000 FOR LANDSCAPE MAINTENANCE OF THE JULIA TUTTLE CAUSEWAY, PURSUANT TO RESOLUTION NO. 2003-25295, WHICH AUTHORIZED THE CITY MANAGER, OR HIS DESIGNEE TO SELECT, NEGOTIATE, AWARD AND REJECT ALL BIDS, CONTRACTS, AGREEMENTS, PURCHASE ORDERS, CHANGE ORDERS AND GRANT APPLICATIONS; RENEW EXISTING CONTRACTS WHICH MAY EXPIRE; TERMINATE EXISTING CONTRACTS AS NEEDED; FROM THE LAST COMMISSION MEETING ON JULY 30, 2003, UNTIL THE FIRST REGULARLY SCHEDULED COMMISSION MEETING IN SEPTEMBER 2003, SUBJECT TO RATIFICATION BY THE CITY COMMISSION AT ITS FIRST REGULARLY SCHEDULED MEETING IN SEPTEMBER 2003.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

BACKGROUND

The Mayor and City Commission at its July 30, 2003 meeting, adopted Resolution No. 2003-25295, which authorized the City Manager, or his designee, to sign all contracts, agreements, purchase orders, change orders, and grant applications; renew any existing contracts, for an appropriate period of time; terminate existing contracts, as needed, from the last Commission meeting on July 30, 2003, until the first regularly scheduled Commission meeting in September 2003, subject to ratification by the City Commission at its first regularly scheduled meeting in September 2003.

The City Manager exercised the authority granted to him by the City Commission on two separate projects that are detailed below:

1. **Agreement with Florida Department of Transportation (FDOT) for landscape maintenance of the Julia Tuttle Causeway.** The City Manager signed a Memorandum of Agreement on behalf of the City Commission with the Florida Department of Transportation on August 29, 2003. The Agreement was a renewal of an existing contract the City has in place with FDOT for the ongoing landscape maintenance of the Julia Tuttle Causeway for which the City is paid \$150,000 annually.

A history of the agreement with FDOT is as follows:

In July of 1994, the City Commission approved the initial Memorandum of Agreement with FDOT to provide for maintenance of landscaping along the Julia Tuttle Causeway, specifically from the east end of the westernmost bridge to Alton road.

Resolution No. 2000-23922, dated May 24, 2000, authorized the City to enter into the current agreement and subsequent renewals or amendments. The current agreement expired on August 31, 2003, and to avoid a lapse in payment of \$150,000 to the City, the Manager signed the agreement on behalf of the City Commission.

For the past several years, the City has utilized the services of a private landscape maintenance company to provide the required work within the limits covered under subject agreement. The annual compensation from FDOT of \$150,000 pays for the total cost of the agreement with the private contractor and plant material replacement as well as the time required for supervision of the project. The Parks and Recreation Department's Parks Division recently hired a Contract Administrator to monitor the work of the contractor on a regular basis to ensure specifications are complied with and the landscape materials are properly maintained. Any deviations from the contract are noted in writing and followed resolved.

To ensure the Julia Tuttle Causeway landscaping continues to be maintained at the high standards set by the City of Miami Beach, and to receive the annual funding of \$150,000 from FDOT that is necessary to support these maintenance standards, the City Commission is asked to ratify the City Manager's approval of the new Fiscal Year 2003/2004 Memorandum of agreement which is to commenced on September 1, 2003 and conclude on August 31, 2004, with an option for renewal for two years, on a year-to-year basis.

2. Citywide Radio and Cellular Telephone Services. The City Commission at its October 23, 2002 meeting adopted Resolution No. 2002-25027, which authorized the Administration to issue a standing order to Nextel Communications, pursuant to State of Florida Contract No. 725-330-98-1, in the amount of \$120,000 for Citywide Radio and Cellular Telephone Services.

The City's Information Technology (IT) Department requested a change order increase in the amount of \$65,000, which brought the total cost to \$185,000. The City Manager authorized the increase in order to ensure that the City's radio and cellular telephone services were not interrupted. Therefore, it is requested that the City Commission ratify the City Manager's approval to increase Nextel's standing order to provide radio and cellular telephone services.

JMG:RCM:GL 

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RESOLUTION TO BE SUBMITTED

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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A Resolution ratifying the Administration's execution of a Joint Participation Agreement (JPA) with FDOT, in the amount of \$13,974, for the City to perform additional traffic analysis of existing conditions and year 2021 projections at the intersections of Indian Creek Drive with 63rd Street and 65th Street, with and without the flyover; and appropriating advance City funds for the study to be performed by HNTB Corporation, for subsequent reimbursement by JPA funds.

Issue:

Shall the City ratify the Administration's execution of the JPA with FDOT?

Item Summary/Recommendation:

Resolution No. 2000-23965, dated 06/07/00 endorsed the FDOT-proposed at-grade solution for the 63rd Street at Indian Creek Drive intersection, and two independent studies conducted by the City and a private developer confirmed the validity of the original FDOT study for the project. Pursuant to a City Commission action of 07/02/03, FDOT agreed to fund an additional traffic analysis of present conditions and year 2021 projections at both the 63rd Street and 65th Street intersections with Indian Creek Drive, with and without the flyover. The City will advance funds in the amount of \$13,974 for the performance of the study, for subsequent reimbursement by FDOT via a Joint Participation Agreement (JPA) between FDOT and the City. As authorized by Resolution No. 2003-25295, dated 07/30/03, the City Manager executed the JPA, in the amount of \$13,974, in order to expedite the start of the study, which will be managed by the City. The study is expected to be completed by October 31, 2003.

In response to a second area of study raised by the Commission, the Administration will develop an RFP to do a full traffic analysis of the area between 71st Street and 63rd Street and develop recommended improvements to mitigate traffic congestion. The Administration proposes to fund the estimated \$100,000 study utilizing Concurrency Mitigation Funds. The Administration recommends approval of the Resolution.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account	Approved
	1	\$13,974		
	2		JPA-funded study (FDOT)	
	3			
	4			
	Total	\$13,974		

Finance Dept.

City Clerk's Office Legislative Tracking:

Amelia Johnson

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM

C7H

DATE

9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RATIFYING THE ADMINISTRATION'S EXECUTION OF A JOINT PARTICIPATION AGREEMENT (JPA) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), IN THE AMOUNT OF \$13,974, FOR THE CITY TO PERFORM ADDITIONAL TRAFFIC ANALYSIS OF EXISTING CONDITIONS AND YEAR 2021 PROJECTIONS AT THE INTERSECTIONS OF INDIAN CREEK DRIVE AT 63RD STREET (BOTH WITH AND WITHOUT THE FLYOVER); AND INDIAN CREEK DRIVE AT 65TH STREET; AND FURTHER AUTHORIZING THE APPROPRIATION OF ADVANCE CITY FUNDS FOR THE STUDY TO BE PERFORMED BY HNTB CORPORATION, FOR SUBSEQUENT REIMBURSEMENT BY JPA FUNDS.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

City Resolution No. 2000-23965, dated June 7, 2000, endorsed a proposed Florida Department of Transportation (FDOT) project for 63rd Street at Indian Creek Drive, which would replace the existing flyover with an at-grade solution for the intersection. Two (2) previous independent studies, commissioned respectively by the City and a private developer, agreed with the FDOT study justifications for the at-grade proposal.

As requested by Commissioner Richard Steinberg, a City Commission action of July 2, 2003 requested that FDOT fund an additional traffic flow analysis of the area (intersections of Indian Creek Drive with both 63rd Street and 65th Street) that would study present traffic conditions and year 2021 projections, both with the flyover and the proposed at-grade intersection.

FDOT agreed to fund the study at a cost of \$13,974, via a Joint Participation Agreement (JPA) with the City. The City will advance funds in the amount of \$13,974 to perform the study, for subsequent reimbursement by the JPA funds. The study will be conducted by a City consultant, and managed by the City.

Commission action of July 2, 2003, also authorized the hiring of HNTB Corporation, from the City's pre-approved rotational list of consultants, to perform this additional study pursuant to the scope of services prepared by the firm, and hereto attached for record.

During discussion on this item, a second area of study was raised. Commissioner Gross asked if an analysis of street patterns on the area of the 63rd Street Flyover could be undertaken to ascertain if use of one way streets might add to capacity. The subject has only been addressed at a cursory level by past consultants. However, given the level of congestion that is experienced between 71st Street and 63rd Street, addressing this question more fully and broadly is appropriate and timely. The Administration will develop a scope of services and cost estimate to perform a comprehensive traffic analysis of the area between 71st Street and 63rd Street. Concurrency Mitigation funds will have to be appropriated for the purposes of this comprehensive analysis.

The FDOT final design plans for an at-grade solution for the 63rd Street at Indian Creek intersection are nearing 60% completion. As authorized by Resolution No. 2003-25295, dated July 30, 2003, the City Manager executed the JPA document, for subsequent ratification by the Mayor and Commissioners at the September 10, 2003 meeting. This was done in order for HNTB to initiate traffic data collection as soon as possible, thereby expediting the execution of the Commission-requested study. On September 4, 2003, a Notice to Proceed was issued to HNTB with a completion date of October 31, 2003. The Administration recommends approval of the Resolution.

JG/RM/FB/JC/AJ

Attachments: Scope of Services for Traffic Analysis of 63rd Street Area
Resolution No. 2003-25295, dated July 30, 2003
JPA Document

*Attachment A
Scope of Services
City of Miami Beach
Consultant Service Order No. 2*

Traffic Analysis – 63 Street Intersections

Introduction

The City of Miami Beach has identified the need to study the existing conditions and future (Year 2021) conditions at two signalized intersections. Study intersections are:

- Indian Creek Drive at 63 Street (with and without fly-over)
- Indian Creek Drive at 65 Street

In general, this study will assist the City staff in responding to the four questions in Commissioner Richard Steinberg's email dated May 6, 2003, as provided to the Consultant by the City staff.

Study Period: Traffic operation analysis will be for the existing conditions during AM, mid-day and PM peak hours on a typical weekday. The 2-hour period to be counted in the AM, mid-day and the PM peak periods would be based on 72-hour (three-day) bi-directional machine counts on 63 Street and Indian Creek Drive. In addition to the existing conditions analysis, traffic analysis will also be performed for projected Year 2021 AM, mid-day, and PM peak hours for each of the alternatives analyzed. Interim year forecasting and/or analysis are not a part of this scope.

Study Alternatives: Four alternatives specified by the City staff will be analyzed for Year 2021 projected volumes. The first three are:

1. At-grade Intersection (Alternative 1B, FDOT Report entitled 63rd Street at Indian Creek Drive, dated March 16, 1999, provided to the Consultant on May 8, 2003 by City staff)
2. New Fly-over (Alternative 2, FDOT Report entitled 63rd Street at Indian Creek Drive, dated March 16, 1999, provided to the Consultant on May 8, 2003 by City staff).
3. No-Build

A fourth alternative will be analyzed to respond to the Commissioner's email comment #3. This alternative, a variation of study alternative 2, will analyze Indian Creek Drive at 65 Street with the same lane configuration as in the study alternative 1.

Year 2021 Traffic Projections: The methodology used to project 2003 traffic volumes to Year 2021 volumes will be based on a linear growth method. A linear growth rate of 1.0% will be applied to existing volumes to project 2021 volumes, as used in the FDOT and Corradino studies. No model runs are part of this scope.

Task 1 – Meetings

This task allows for up to 2 informal meetings, one with City staff and one Commissioner briefing. Public presentations and/or board meetings are not part of this scope.

Task 1 Products

- Two Meetings

Task 2 – Review Background Studies

This task allows for review of pertinent studies and data provided to the Consultant by City staff at the May 8, 2003 scope meeting. The City will provide other relevant data and studies. This task does not allow for the Consultant to coordinate and obtain such studies from third parties.

Specifically, the following studies related to 63 Street Fly-over may be relevant:

1. FDOT's Traffic Study Report, dated January 27, 1999 along with traffic count data (not provided yet)
2. FDOT's Final Supplemental Report, dated March 11, 1999 (already provided)
3. Corradino's Traffic Study Evaluation, dated April 2000 (already provided)

Task 2 Products

- General understanding of previous efforts and analysis methodology

Task 3 – Traffic Counts

This task allows for collection of existing 72-hour (three-day) machine bi-directional counts on one typical weekday at two study locations. Vehicle classification counts are not part of this scope. The two locations are as follows:

- 63 Street just west of the fly-over
- Indian Creek Drive just north of the fly-over

This task allows for collection of existing turning movement counts on one typical weekday at the two study intersections and the fly-over. The turning movement count program is as follows:

- AM (2-hours) Intersection Turning Movement Counts including pedestrians
- Mid-day (2-hours) Intersection Turning Movement Counts including pedestrians
- PM (2-hours) Intersection Turning Movement Counts including pedestrians

Task 3 Products

- 72-hour bi-directional traffic counts – 2 locations
- 6-hour (AM+MD+PM) Intersection Turning Movement Counts – 2 intersections
- 6-hour (AM+MD+PM) Volume Count – fly-over

Task 4 – Field Review

This task allows for field observations of the intersection traffic operations during the study periods. Review will be performed by a qualified traffic engineer during the AM, Mid-day and PM peak periods. Roadway characteristics, intersection geometry and signal characteristics will also be recorded during the field review. This task does not provide for field inventory of all physical features.

Task 4 Products

- AM, Mid-day and PM Peak Period Field Observations

Task 5 – Existing Intersection Level of Service (LOS) Analysis

This task allows for the intersection analysis using SIGNAL2000. The results will be checked for reasonableness compared to field observations. Any adjustments to the inputs and/or default values to achieve a reasonable representation of field observed conditions will be documented and provided to the City.

Base condition analysis will reflect existing conditions, i.e., volumes, geometry, signal timing. Fly-over volumes will be treated consistent with FDOT and the Corradino study in the LOS analysis.

Task 5 Products

- Intersection Analysis and Worksheets – Existing Condition (AM+MD+PM)

Task 6A – Year 2021 Volume Forecasts

Year 2021 hourly volumes will be projected consistent with FDOT and the Corradino study. Methodology is described in the introduction section of this scope. AM, MD, and PM peak hour turning volumes will be estimated for the two study intersections for each of the study alternatives.

Task 6A Products

- Year 2021 Intersection Volume Estimates (AM+MD+PM, for each study alternative) for use in Task 6B

Task 6B – Year 2021 Intersection LOS Analysis

This task allows for the Year 2021 intersection LOS analysis using SIGNAL2000. Fly-over volumes will be treated consistent with FDOT and the Corradino study in the LOS analysis. AM, mid-day, and PM peak hours will be analyzed for each study alternative. Signal timing will be based on the Corradino report and engineering judgment.

Quantitative analysis for signal coordination and signal optimization to develop signal phasing and timing plan are not a part of this scope. Transyt 7f is not a part of this scope.

Task 6B Products

- Intersection Analysis and Worksheets – Year 2021 (AM+MD+PM, for each study alternative)

Task 7A – Draft Study Report

This task allows for the preparation of a draft study report to document the data, reviews, analysis and findings of Tasks 1 thru 6, and present recommendations and/or conclusions of the study.

This task and/or scope do not provide for drawings of the intersection condition diagrams and/or the improvement concepts. Concept drawings from the FDOT study may be copied and excerpted in the report appendix, if appropriate.

Three copies of the draft report are budgeted.

Task 7A Products

- Draft Report – 3 copies - unbound

Task 7B – Final Study Report

This task allows for the preparation of a final study report to respond to the comments on the draft. Three copies of the final report are budgeted.

This task allows for response to up to one (1) round of comments from the City staff received on the draft. Subsequent rounds of comments will require additional fees. The budget includes response to comments that are editorial/clarification, but does not include response that would require testing variations of the analysis and/or concepts. Such revisions to the analysis and/or report will require additional fees, if those revisions are for any reason other than error on part of the Consultant.

Task 7B Products

- Final Report – 3 copies - bound

Schedule

The schedule is dependent on when the notice to proceed is issued in relation to the Memorial Day weekend and subsequent closure of Miami-Dade Schools. Counts are not recommended for the week of May 26, and the Thursday before May 26. Then Miami-Dade schools close June 11 so we would not recommend counting that week or until schools open after summer. Furthermore, the Consultant is not responsible for delays caused due to unusual weather conditions where traffic counts would not be collected.

Usually, a study such as this can be completed within 45 calendar days of notice to proceed, if traffic counts can be obtained in a timely manner.

Tasks Not Included

- Crash Review, Analysis, Collision Diagrams
- Link LOS
- Transyt 7f
- FSUTMS
- Weekend analysis
- Existing Condition Diagram
- Improvement Concept Drawings
- Cost Estimates
- Tasks not specifically mentioned in the task descriptions above.

Attachment B
Man-hour & Fee Estimate / Prepared by HNTB Corporation
City of Miami Beach
Consultant Service Order No. 2

Alternate Scope to Control Costs (No transyt 7f, No link LOS, w/72 hr counts)

May 14, 2003
Final

	Project Director	Project Manager	Sr Engineer	Engineer	Clerical	Hours
Classification >>>>>						
Contract Rates >>>>>	\$ 154.00	\$ 127.00	\$ 109.00	\$ 92.00	\$ 42.00	
Task 1 - Meetings (1 informal mtg with staff + 1 informal mtg with Commissioner)	3.00	3.00	0.00	0.00	0.00	6.00
Task 2 - Review Background Studies	1.00	2.00	2.00	0.00	0.00	5.00
Task 3 - Traffic Counts	0.00	0.00	0.00	2.00	0.00	2.00
Task 4 - Field Review (AM, MD, PM)	0.00	0.00	9.00	0.00	0.00	9.00
Task 5 - Existing LOS - SIGNAL 2000 (AM, MD, PM)	0.00	1.00	2.00	7.00	0.00	10.00
Task 6A - 2021 Volume Forecasts (3 Alts, AM, MD, PM, No FSUTMS)	0.00	1.00	4.00	11.00	0.00	16.00
Task 6B - 2021 LOS - SIGNAL 2000 (3 Alts - AM, MD, PM)	0.00	2.00	2.00	20.00	0.00	24.00
Task 7A - Draft Study Report (3 copies)	2.00	4.00	18.00	6.00	0.00	30.00
Task 7B - Final Study Report (3 copies)	1.00	2.00	6.00	1.00	0.00	10.00
Total Labor Hours	7.00	15.00	43.00	47.00	0.00	112.00
Total Labor Fee	\$ 1,078	\$ 1,905	\$ 4,687	\$ 4,324	\$ -	\$ 11,994

Total Labor = **\$ 11,994**

Reimbursable Expenses

6-hr TMCs @ 2 intersections =	\$ 777
6-hr Manual Count on Flyover =	\$ 353
72-hr Machine @ 2 locations =	\$ 600
Mileage =	\$ 50
Reproduction/Binding =	\$ 200
Shipping/Mailing =	\$ -

Total Out-of-Pocket Expenses = **\$ 1,980**

TOTAL LUMP SUM FEE = **\$ 13,974**

RESOLUTION NO. 2003-25295

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO SELECT, NEGOTIATE, AWARD AND REJECT ALL BIDS, CONTRACTS, AGREEMENTS, PURCHASE ORDERS, CHANGE ORDERS AND GRANT APPLICATIONS; RENEW EXISTING CONTRACTS WHICH MAY EXPIRE; TERMINATE EXISTING CONTRACTS AS NEEDED; FROM THE LAST COMMISSION MEETING ON JULY 30, 2003, UNTIL THE FIRST REGULARLY SCHEDULED MEETING IN SEPTEMBER 2003, SUBJECT TO RATIFICATION BY THE CITY COMMISSION AT ITS FIRST REGULARLY SCHEDULED MEETING IN SEPTEMBER 2003.

WHEREAS, between the last meeting on July 30, 2003, and the first regularly scheduled meeting in September 2003, the City Commission will not be in session. During this period, there may be bids or contracts in excess of the \$25,000, which may need to be rejected, awarded or terminated; and

WHEREAS, the City Commission has historically, during its August recess, assigned the City Manager with the authority to select, negotiate, award and/or renew contracts as needed, subject to ratification by the City Commission; and

WHEREAS, it is therefore requested that the City Manager, or his designee, be authorized to sign all contracts, agreements, purchase orders, change orders, and grant applications; renew any existing contracts, for an appropriate period of time; terminate existing contracts, as needed, from the last Commission meeting on July 30, 2003, until the first regularly scheduled Commission meeting in September 2003, subject to ratification by the City Commission at its first regularly scheduled meeting in September 2003; and

WHEREAS, attached is a list of capital improvement projects that are currently out for bid and could be ready for award during the August recess; and

WHEREAS, since this authorization is necessary to ensure that essential services and projects continue during the period between the last Commission meeting on July 30, 2003, until the first regularly scheduled Commission meeting in September 2003, it is recommended that the City Commission adopt this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission authorize the City Manager, or his designee to select, negotiate, award and reject all bids, contracts, agreements, purchase orders, change orders, and grant applications; renew existing contracts which may expire, terminate existing contracts as needed; from the last City Commission meeting on July 30, 2003, until the first regularly scheduled meeting in September 2003, subject to ratification by the City Commission at its first regularly scheduled meeting in September 2003.

PASSED and ADOPTED this 30th day of July, 2003.


Mayor

ATTEST:


City Clerk

T:\AGENDA\2003\jul3003\regular\AugustRecessReso.doc

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney

7-24-03
Date

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RATIFYING THE ADMINISTRATION'S EXECUTION OF A JOINT PARTICIPATION AGREEMENT (JPA) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), IN THE AMOUNT OF \$13,974, FOR THE CITY TO PERFORM ADDITIONAL TRAFFIC ANALYSIS OF EXISTING CONDITIONS AND YEAR 2021 PROJECTIONS AT THE INTERSECTIONS OF INDIAN CREEK DRIVE AT 63RD STREET (BOTH WITH AND WITHOUT THE FLYOVER); AND INDIAN CREEK DRIVE AT 65TH STREET; AND FURTHER AUTHORIZING THE APPROPRIATION OF ADVANCE CITY FUNDS FOR THE STUDY TO BE PERFORMED BY HNTB, INC., FOR SUBSEQUENT REIMBURSEMENT BY JPA FUNDS.

WHEREAS, Resolution No. 2000-23965, dated June 7, 2000, endorsed a proposed Florida Department of Transportation (FDOT) project for 63rd Street at Indian Creek Drive to replace the existing flyover with an at-grade solution for the intersection (the Project); and

WHEREAS, at the request of the City Commission, FDOT agreed to fund an additional traffic flow analysis of the area, encompassing the intersections of Indian Creek Drive with both 63rd Street and 65th Street, to study present conditions and year 2021 projections, both with the existing flyover and with the proposed Project; and

WHEREAS, the City will advance funds in the amount of \$13,974 to perform the study, for subsequent reimbursement by FDOT under a fully executed Joint Participation Agreement (JPA); and

WHEREAS, as authorized by Resolution No. 2003-25295, dated July 30, 2003, the City Manager executed the JPA, so that the Commission-requested study could proceed on a timely manner; and

WHEREAS, the Administration action needs to be ratified by the City Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby ratify the Administration's execution of a Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT), in the amount of \$13,974, for the City to perform an additional traffic analysis of existing conditions and year 2021 projections at the intersections of Indian Creek Drive at 63rd Street, both with and without the flyover; and Indian Creek Drive at 65th Street; and further authorizing the appropriation of advance City funds for the study to be performed by HNTB, Inc., for subsequent reimbursement by JPA funds.

PASSED AND APPROVED this the _____ day of _____, 2003.

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

F:\WORK\STRAVAMELIA\FDOT\JPAfor63rdFlyover.memo.doc



City Attorney

8-29-03
Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION
JOINT PARTICIPATION AGREEMENT

725-030-06
PUBLIC TRANSPORTATION
06/03
Page 1 of 12

Financial Project No.: <u>24994013801</u> (item-segment-phase-sequence)	Fund: <u>DS</u>	FLAIR Approp.: <u>088849</u>
Contract No.: <u>ANB23</u>	Function: <u>215</u>	FLAIR Obj.: <u>790089</u>
Catalog of Federal Domestic Assistance Number: <u>N/A</u>	Federal No.: <u>N/A</u>	Org. Code: <u>55063010601</u>
		Vendor No.: <u>F596000372005</u>
	Catalog of State Financial Assistance Number: <u>N/A</u>	

THIS AGREEMENT, made and entered into this _____ day of _____,
by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida,
hereinafter referred to as the Department, and City of Miami Beach
1700 Convention Center Drive, Miami Beach, Florida 33139
hereinafter referred to as Agency.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into said Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under 339.12(5),
Florida Statutes, to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1.00 Purpose of Agreement: The purpose of this Agreement is
to provide state funding to the City of Miami Beach to conduct a traffic analysis and prepare a final report
for the 63rd Street improvement project at Indian Creek Drive intersection, in accordance with the
attached scope of services.

and as further described in Exhibit(s) A, B, C attached hereto and by this reference made a part
hereof, hereinafter referred to as the project, and to provide Departmental financial assistance to the Agency and
state the terms and conditions upon which such assistance will be provided and the understandings as to the
manner in which the project will be undertaken and completed.

2.00 Accomplishment of the Project

2.10 General Requirements: The Agency shall commence, and complete the project as described in Exhibit "A" attached hereto and by this reference made a part hereof, with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws.

2.20 Pursuant to Federal, State, and Local Law: In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder, or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

2.30 Funds of the Agency: The Agency shall initiate and prosecute to completion all proceedings necessary including federal aid requirements to enable the Agency to provide the necessary funds for completion of the project.

2.40 Submission of Proceedings, Contracts and Other Documents: The Agency shall submit to the Department such data, reports, records, contracts and other documents relating to the project as the Department may require as listed in Exhibit "C" attached hereto and by this reference made a part hereof.

3.00 Project Cost: The total estimated cost of the project is \$ 13,974. This amount is based upon the estimate summarized in Exhibit "B" attached hereto and by this reference made a part hereof. The Agency agrees to bear all expenses in excess of the total estimated cost of the project and any deficits involved.

4.00 Department Participation: The Department agrees to maximum participation, including contingencies, in the project in the amount of \$ 13,974 as detailed in Exhibit "B", or in an amount equal to the percentage(s) of total project cost shown in Exhibit "B", whichever is less.

4.10 Project Cost Eligibility : Project costs eligible for State participation will be allowed only from the effective date of this agreement. It is understood that State participation in eligible project costs is subject to:

- (a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;
- (b) Availability of funds as stated in paragraph 17.00 of this Agreement;
- (c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement;
- (d) Department approval of the project scope and budget (Exhibits A & B) at the time appropriation authority becomes available.

4.20 Front End Funding : Front end funding ☐ is ☒ is not applicable. If applicable, the Department may initially pay 100% of the total allowable incurred project costs up to an amount equal to its total share of participation as shown in paragraph 4.00.

5.00 Retainage : Retainage ☐ is ☒ is not applicable. If applicable, _____ percent of the Department's total share of participation as shown in paragraph 4.00 is to be held in retainage to be disbursed, at the Department's discretion, on or before the completion of the final project audit.

6.00 Project Budget and Payment Provisions:

6.10 The Project Budget: A project budget shall be prepared by the Agency and approved by the Department. The Agency shall maintain said budget, carry out the project and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved budget for the project. No budget increase or decrease shall be effective unless it complies with fund participation requirements established in paragraph 4.00 of this Agreement and is approved by the Department Comptroller.

6.20 Payment Provisions: Unless otherwise allowed under paragraph 4.20, payment will begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Payment will be made for actual costs incurred as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.

7.00 Accounting Records:

7.10 Establishment and Maintenance of Accounting Records: The Agency shall establish for the project, in conformity with requirements established by Department's program guidelines/procedures and "Principles for State and Local Governments", separate accounts to be maintained within its existing accounting system or establish independent accounts. Such accounts are referred to herein collectively as the "project account". Documentation of the project account shall be made available to the Department upon request any time during the period of the Agreement and for three years after final payment is made.

7.20 Funds Received Or Made Available for The Project: The Agency shall appropriately record in the project account, and deposit in a bank or trust company which is a member of the Federal Deposit Insurance Corporation, all payments received by it from the Department pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the project, which Department payments and other funds are herein collectively referred to as "project funds". The Agency shall require depositories of project funds to secure continuously and fully all project funds in excess of the amounts insured under federal plans, or under State plans which have been approved for the deposit of project funds by the Department, by the deposit or setting aside of collateral of the types and in the manner as prescribed by State Law for the security of public funds, or as approved by the Department.

7.30 Costs Incurred for the Project: The Agency shall charge to the project account all eligible costs of the project. Costs in excess of the latest approved budget or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

7.40 Documentation of Project Costs: All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.

7.50 Checks, Orders, and Vouchers: Any check or order drawn by the Agency with respect to any item which is or will be chargeable against the project account will be drawn only in accordance with a properly signed voucher then on file in the office of the Agency stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate and apart from all other such documents.

7.60 Audit Reports: In addition to the requirements below, the Agency agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department, including but not limited to site visits and limited scope audits. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the State Comptroller or Auditor General. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of three years from the date the audit report is issued, and shall allow the Department access to such records and working papers upon request. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official.

7.61 Federal Audit: In the event the Agency expends a total of \$300,000 or more in Federal awards in its fiscal year, the Agency must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding Federal agency. If the Agency expends less than \$300,000, this audit is not required and if the Agency elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, the cost of the audit must be paid from non-Federal funds.

The Agency agrees to allow the Department or an independent auditor of the Department, the State Comptroller, and the Auditor General access to the Agency's records and financial statements as may be necessary for complying with the requirements of 31 U.S.C. 7501 et seq.

Pursuant to OMB Circular A-133, Subpart C, .320(d), the Agency shall provide a copy of the reporting package and any management letters to the Department, or copies of audit reports for audits conducted in accordance with OMB Circular A-133, to the Department and to:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

7.62 State Audit: In the event that the Agency expends a total of \$300,000 or more in State awards in its fiscal year, the Agency must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes and the applicable rules of the Executive Office of the Governor, the State Comptroller, and the Auditor General. In determining the State awards expended in its fiscal year, the Agency shall consider all sources of State awards except State awards received for Federal program matching requirements which shall be excluded from consideration. State awards will be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the awarding State agency. If the Agency expends less than \$300,000, this audit is not required and if the Agency elects to have an audit conducted in accordance with the provisions of Section 215.97, F.S., the cost of the audit must be paid from non-State funds.

The Agency agrees to allow the Department, the State Comptroller, and the Auditor General access to records and independent auditor's working papers, as necessary for complying with the requirements of Section 215.97, F.S.

The Agency shall provide annual financial reporting package of audits prepared in accordance with Section 215.97, F.S., and applicable Rules of the Auditor General to the Department and to:

State of Florida Auditor General
Room 574, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450

7.63 Other Requirements: If an audit discloses any significant audit findings relating to any award, including material noncompliance with individual project compliance requirements or reportable conditions in internal controls of the Agency, the Agency shall submit as part of the audit package to the Department a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary. The Agency shall take timely and appropriate corrective action to any audit findings, recommendations, and corrective action plans.

7.70 Insurance: Execution of this Joint Participation Agreement constitutes a certification that the Agency has and will maintain the ability to repair or replace any project equipment or facilities in the event of loss or damage due to any accident or casualty for the useful life of such equipment or facilities. In the event of the loss of such equipment or facilities, the Agency shall either replace the equipment or facilities or reimburse the Department to the extent of its interest in the lost equipment or facility.

In the event this Agreement is for purchase of land or for the construction of infrastructure such as airport runways the Department may waive or modify this section with an Exhibit "C".

8.00 Requisitions and Payments:

8.10 Action by the Agency: In order to obtain any Department funds, the Agency shall file with the Department of Transportation, District Six Public Transportation Office 1000 NW 111 Ave. Rm 6103, Miami, FL, 33172 its requisition on a form or forms prescribed by the Department, and any other data pertaining to the project account (as defined in paragraph 7.10 hereof) to justify and support the payment requisitions.

8.11 Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

8.12 Invoices for any travel expenses shall be submitted in accordance with Chapter 112.061, F.S. The Department may establish rates lower than the maximum provided in Chapter 112.061, F.S.

8.13 For real property acquired, submit;

- (1) the date the Agency acquired the real property,
- (2) a statement by the Agency certifying that the Agency has acquired said real property, and actual consideration paid for real property.
- (3) a statement by the Agency certifying that the appraisal and acquisition of the real property together with any attendant relocation of occupants was accomplished in compliance with all federal laws, rules and procedures required by any federal oversight agency and with all state laws, rules and procedures that may apply to the Agency acquiring the real property.

8.20 The Department's Obligations: Subject to other provisions hereof, the Department will honor such requisitions in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment on the project if:

8.21 Misrepresentation: The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

8.22 Litigation: There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement, or payments to the project;

8.23 Approval by Department: The Agency shall have taken any action pertaining to the project which, under this agreement, requires the approval of the Department or has made related expenditures or incurred related obligations without having been advised by the Department that same are approved;

8.24 Conflict of Interests: There has been any violation of the conflict of interest provisions contained herein; or

8.25 Default: The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

8.26 Federal Participation (If Applicable): Any federal agency providing federal financial assistance to the project suspends or terminates federal financial assistance to the project. In the event of suspension or termination of federal financial assistance, the Agency will reimburse the Department for all disallowed costs.

8.30 Disallowed Costs: In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement, costs which are not provided for in the latest approved budget for the project, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

8.40 Payment Offset: If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this agreement, the Department may offset such amount from payments due for work or services done under any public transportation joint participation agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting amounts shall not be considered a breach of contract by the Department.

9.00 Termination or Suspension of Project:

9.10 Termination or Suspension Generally: If the Agency abandons or, before completion, finally discontinues the project; or if, by reason of any of the events or conditions set forth in paragraphs 8.21 to 8.26 inclusive, or for any other reason, the commencement, prosecution, or timely completion of the project by the Agency is rendered improbable, infeasible, impossible, or illegal, the Department will, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement.

9.11 Action Subsequent to Notice of Termination or Suspension. Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (1) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to the minimum the costs upon the basis of which the financing is to be computed; (2) furnish a statement of the project activities and contracts, and other undertakings the cost of which are otherwise includable as project costs; and (3) remit to the Department such portion of the financing and any advance payment previously received as is determined by the Department to be due under the provisions of the Agreement. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and budget as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and budget within a reasonable time. The approval of a remittance by the Agency or the closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

9.12 The Department reserves the right to unilaterally cancel this Agreement for refusal by the contractor or Agency to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S. and made or received in conjunction with this Agreement.

10.00 Remission of Project Account Upon Completion of Project: Upon completion of the project, and after payment, provision for payment, or reimbursement of all project costs payable from the project account is made, the Agency shall remit to the Department its share of any unexpended balance in the project account.

11.00 Audit and Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives to inspect all work, materials, payrolls, records; and to audit the books, records and accounts pertaining to the financing and development of the project.

12.00 Contracts of the Agency:

12.10 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department joint participation funds, including consultant, construction or purchase of commodities contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department as provided in paragraph 8.23. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

12.20 Compliance with Consultants' Competitive Negotiation Act: It is understood and agreed by the parties hereto that participation by the Department in a project with an Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency complying in full with provisions of Chapter 287, F.S., Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the Consultant Selection Process for all contracts. In all cases, the Agency's Attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

12.30 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

12.31 DBE Policy: It is the policy of the Department that disadvantaged business enterprises as defined in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of 49 CFR Part 26, as amended, apply to this Agreement.

12.32 DBE Obligation: The Agency and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts and this Agreement. In this regard, all recipients, and contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Grantees, recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department assisted contracts.

13.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

13.10 Equal Employment Opportunity: In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The Agency will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the project, except contracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

13.20 Title VI - Civil Rights Act of 1964: Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et. seq.), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

13.30 Title VIII - Civil Rights Act of 1968: Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, 42 USC 3601, et seq., which among other things, prohibits discrimination in housing on the basis of race, color, national origin, creed, sex, and age.

13.40 Americans with Disabilities Act of 1990 (ADA): Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by the ADA (42 U.S.C. 12102, et. seq.), the regulations of the federal government issued thereunder, and the assurance by the Agency pursuant thereto.

13.50 Prohibited Interests: Neither the Agency nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement in connection with the project or any property included or planned to be included in the project, in which any member, officer, or employee of the Agency during his tenure or for two years thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency with prior approval of the Department, may waive the prohibition contained in this subsection: Provided, that any such present member, officer or employee shall not participate in any action by the Agency relating to such contract, subcontract, or arrangement. The Agency shall insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer, or employee of the Agency during his tenure or for two years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this subsection shall not be applicable to any agreement between the Agency and its fiscal depositories, or to any agreement for utility services the rates for which are fixed or controlled by a Governmental agency.

13.60 Interest of Members of, or Delegates to, Congress: No member or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

14.00 Miscellaneous Provisions:

14.10 Environmental Pollution: Execution of this Joint Participation Agreement constitutes a certification by the Agency that the project will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The Agency will be solely responsible for any liability in the event of non-compliance with applicable environmental regulations, including the securing of any applicable permits, and will reimburse the Department for any loss incurred in connection therewith.

14.20 Department Not Obligated to Third Parties: The Department shall not be obligated or liable hereunder to any party other than the Agency.

14.30 When Rights and Remedies Not Waived: In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist, on the part of the Agency, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

14.40 How Agreement Is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

14.50 Bonus or Commission: By execution of the Agreement the Agency represents that it has not paid and, also, agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

14.60 State or Territorial Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable State law: Provided, that if any of the provisions of the Agreement violate any applicable State law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

14.70 Use and Maintenance of Project Facilities and Equipment: The Agency agrees that the project facilities and equipment will be used by the Agency to provide or support public transportation for the period of the useful life of such facilities and equipment as determined in accordance with general accounting principles and approved by the Department. The Agency further agrees to maintain the project facilities and equipment in good working order for the useful life of said facilities or equipment.

14.71 Property Records: The Agency agrees to maintain property records, conduct physical inventories and develop control systems as required by 49 CFR Part 18, when applicable.

14.80 Disposal of Project Facilities or Equipment: If the Agency disposes of any project facility or equipment during its useful life for any purpose except its replacement with like facility or equipment for public transportation use, the Agency will comply with the terms of 49 CFR Part 18 relating to property management standards. The Agency agrees to remit to the Department a proportional amount of the proceeds from the disposal of the facility or equipment. Said proportional amount shall be determined on the basis of the ratio of the Department financing of the facility or equipment as provided in this Agreement.

14.90 Contractual Indemnity: To the extent provided by law, the Agency shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Agency, its agents, or employees, during the performance of the Agreement, except that neither the Agency, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by the Agency in the performance of services required under this Agreement, the Department will immediately forward the claim to the Agency. The Agency and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Agency in the defense of the claim or to require that the Agency defend the Department in such claim as described in this section. The Department's failure to promptly notify the Agency of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Agency. The Department and the Agency will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

15.00 Plans and Specifications: In the event that this Agreement involves the purchasing of capital equipment or the constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the project and comments or recommendations concerning any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause for nonpayment by the Department as provided in paragraph 8.23.

16.00 Project Completion, Agency Certification: The Agency will certify in writing on or attached to the final invoice, that the project was completed in accordance with applicable plans and specifications, is in place on the Agency facility, that adequate title is in the Agency and that the project is accepted by the Agency as suitable for the intended purpose.

17.00 Appropriation of Funds:

17.10 The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

17.20 Multi-Year Commitment: In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Chapter 339.135(6)(a), F.S., are hereby incorporated: "(a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of 25,000 dollars and which have a term for a period of more than 1 year."

18.00 Expiration of Agreement: The Agency agrees to complete the project on or before August 17, 2004. If the Agency does not complete the project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the District Director of Production. Expiration of this Agreement will be considered termination of the project and the procedure established in paragraph 9.00 of this Agreement shall be initiated.

18.10 Final Invoice: The Agency must submit the final invoice on this project to the Department within 120 days after the expiration of this Agreement. Invoices submitted after the 120 day time period will not be paid.

19.00 Agreement Format: All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

20.00 Execution of Agreement: This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

21.00 Restrictions on Lobbying:

21.10 Federal: The Agency agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Joint Participation Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this section be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

21.20 State: No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

22.00 Vendors Rights: Vendors (in this document identified as Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

If a payment is not available within 40 days after receipt of the invoice and receipt, inspection and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), F.S. will be due and payable, in addition to the invoice amount to the Agency. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices which have to be returned to an Agency because of vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at (850)410-9724 or by calling the Department of Financial Services Hotline, 1-800-848-3792.

23.00 Public Entity Crime: Pursuant to 287.133(3)(a) F.S. the following is applicable to this agreement. 287.133(2)(a) "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

24.00 Discrimination: An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

Financial Project No. 24994013801

Contract No. ANB23

Agreement Date _____

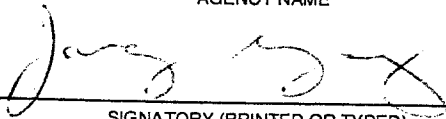
IN WITNESS WHEREOF, the parties hereto have caused these presents be executed, the day and year first above written.

AGENCY

FDOT

City of Miami Beach

AGENCY NAME



SIGNATORY (PRINTED OR TYPED)

JORGE M. GONZALEZ

SIGNATURE

CITY MANAGER

TITLE

See attached Encumbrance Form for date of Funding
Approval by Comptroller

A Legatt


LEGAL REVIEW
DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

District Director of Production

TITLE

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 8-26-03
City Attorney Date

*Attachment A
Scope of Services
City of Miami Beach
Consultant Service Order No. 2*

Traffic Analysis – 63 Street Intersections

Introduction

The City of Miami Beach has identified the need to study the existing conditions and future (Year 2021) conditions at two signalized intersections. Study intersections are:

- Indian Creek Drive at 63 Street (with and without fly-over)
- Indian Creek Drive at 65 Street

In general, this study will assist the City staff in responding to the four questions in Commissioner Richard Steinberg's email dated May 6, 2003, as provided to the Consultant by the City staff.

Study Period: Traffic operation analysis will be for the existing conditions during AM, mid-day and PM peak hours on a typical weekday. The 2-hour period to be counted in the AM, mid-day and the PM peak periods would be based on 72-hour (three-day) bi-directional machine counts on 63 Street and Indian Creek Drive. In addition to the existing conditions analysis, traffic analysis will also be performed for projected Year 2021 AM, mid-day, and PM peak hours for each of the alternatives analyzed. Interim year forecasting and/or analysis are not a part of this scope.

Study Alternatives: Four alternatives specified by the City staff will be analyzed for Year 2021 projected volumes. The first three are:

1. At-grade Intersection (Alternative 1B, FDOT Report entitled 63rd Street at Indian Creek Drive, dated March 16, 1999, provided to the Consultant on May 8, 2003 by City staff)
2. New Fly-over (Alternative 2, FDOT Report entitled 63rd Street at Indian Creek Drive, dated March 16, 1999, provided to the Consultant on May 8, 2003 by City staff).
3. No-Build

A fourth alternative will be analyzed to respond to the Commissioner's email comment #3. This alternative, a variation of study alternative 2, will analyze Indian Creek Drive at 65 Street with the same lane configuration as in the study alternative 1.

Year 2021 Traffic Projections: The methodology used to project 2003 traffic volumes to Year 2021 volumes will be based on a linear growth method. A linear growth rate of 1.0% will be applied to existing volumes to project 2021 volumes, as used in the FDOT and Corradino studies. No model runs are part of this scope.

Task 1 – Meetings

This task allows for up to 2 informal meetings, one with City staff and one Commissioner briefing. Public presentations and/or board meetings are not part of this scope.

Task 1 Products

- Two Meetings

Task 2 – Review Background Studies

This task allows for review of pertinent studies and data provided to the Consultant by City staff at the May 8, 2003 scope meeting. The City will provide other relevant data and studies. This task does not allow for the Consultant to coordinate and obtain such studies from third parties.

Specifically, the following studies related to 63 Street Fly-over may be relevant:

1. FDOT's Traffic Study Report, dated January 27, 1999 along with traffic count data (not provided yet)
2. FDOT's Final Supplemental Report, dated March 11, 1999 (already provided)
3. Corradino's Traffic Study Evaluation, dated April 2000 (already provided)

Task 2 Products

- General understanding of previous efforts and analysis methodology

Task 3 – Traffic Counts

This task allows for collection of existing 72-hour (three-day) machine bi-directional counts on one typical weekday at two study locations. Vehicle classification counts are not part of this scope. The two locations are as follows:

- 63 Street just west of the fly-over
- Indian Creek Drive just north of the fly-over

This task allows for collection of existing turning movement counts on one typical weekday at the two study intersections and the fly-over. The turning movement count program is as follows:

- AM (2-hours) Intersection Turning Movement Counts including pedestrians
- Mid-day (2-hours) Intersection Turning Movement Counts including pedestrians
- PM (2-hours) Intersection Turning Movement Counts including pedestrians

Task 3 Products

- 72-hour bi-directional traffic counts - 2 locations
- 6-hour (AM+MD+PM) Intersection Turning Movement Counts - 2 intersections
- 6-hour (AM+MD+PM) Volume Count - fly-over

Task 4 – Field Review

This task allows for field observations of the intersection traffic operations during the study periods. Review will be performed by a qualified traffic engineer during the AM, Mid-day and PM peak periods. Roadway characteristics, intersection geometry and signal characteristics will also be recorded during the field review. This task does not provide for field inventory of all physical features.

Task 4 Products

- AM, Mid-day and PM Peak Period Field Observations

Task 5 – Existing Intersection Level of Service (LOS) Analysis

This task allows for the intersection analysis using SIGNAL2000. The results will be checked for reasonableness compared to field observations. Any adjustments to the inputs and/or default values to achieve a reasonable representation of field observed conditions will be documented and provided to the City.

Base condition analysis will reflect existing conditions, i.e., volumes, geometry, signal timing. Fly-over volumes will be treated consistent with FDOT and the Corradino study in the LOS analysis.

Task 5 Products

- Intersection Analysis and Worksheets – Existing Condition (AM+MD+PM)

Task 6A – Year 2021 Volume Forecasts

Year 2021 hourly volumes will be projected consistent with FDOT and the Corradino study. Methodology is described in the introduction section of this scope. AM, MD, and PM peak hour turning volumes will be estimated for the two study intersections for each of the study alternatives.

Task 6A Products

- Year 2021 Intersection Volume Estimates (AM+MD+PM, for each study alternative) for use in Task 6B

Task 6B – Year 2021 Intersection LOS Analysis

This task allows for the Year 2021 intersection LOS analysis using SIGNAL2000. Fly-over volumes will be treated consistent with FDOT and the Corradino study in the LOS analysis. AM, mid-day, and PM peak hours will be analyzed for each study alternative. Signal timing will be based on the Corradino report and engineering judgment.

Quantitative analysis for signal coordination and signal optimization to develop signal phasing and timing plan are not a part of this scope. Transyt 7f is not a part of this scope.

Task 6B Products

- Intersection Analysis and Worksheets – Year 2021 (AM+MD+PM, for each study alternative)

Task 7A – Draft Study Report

This task allows for the preparation of a draft study report to document the data, reviews, analysis and findings of Tasks 1 thru 6, and present recommendations and/or conclusions of the study.

This task and/or scope do not provide for drawings of the intersection condition diagrams and/or the improvement concepts. Concept drawings from the FDOT study may be copied and excerpted in the report appendix, if appropriate.

Three copies of the draft report are budgeted.

Task 7A Products

- Draft Report – 3 copies - unbound

Task 7B – Final Study Report

This task allows for the preparation of a final study report to respond to the comments on the draft. Three copies of the final report are budgeted.

This task allows for response to up to one (1) round of comments from the City staff received on the draft. Subsequent rounds of comments will require additional fees. The budget includes response to comments that are editorial/clarification, but does not include response that would require testing variations of the analysis and/or concepts. Such revisions to the analysis and/or report will require additional fees, if those revisions are for any reason other than error on part of the Consultant.

Task 7B Products

- Final Report – 3 copies - bound

Schedule

The schedule is dependent on when the notice to proceed is issued in relation to the Memorial Day weekend and subsequent closure of Miami-Dade Schools. Counts are not recommended for the week of May 26, and the Thursday before May 26. Then Miami-Dade schools close June 11 so we would not recommend counting that week or until schools open after summer. Furthermore, the Consultant is not responsible for delays caused due to unusual weather conditions where traffic counts would not be collected

Usually, a study such as this can be completed within 45 calendar days of notice to proceed, if traffic counts can be obtained in a timely manner.

Tasks Not Included

- Crash Review, Analysis, Collision Diagrams
- Link LOS
- Transyt 7f
- FSUTMS
- Weekend analysis
- Existing Condition Diagram
- Improvement Concept Drawings
- Cost Estimates
- Tasks not specifically mentioned in the task descriptions above.

Attachment B
Man-hour & Fee Estimate / Prepared by HNTB Corporation
City of Miami Beach
Consultant Service Order No. 2

Alternate Scope to Control Costs (No transyt 7f, No link LOS, w/72 hr counts)

May 14, 2003
Final

Classification >>>>>	Project Director	Project Manager	Sr Engineer	Engineer	Clerical	Hours
Contract Rates >>>>>	\$ 154.00	\$ 127.00	\$ 109.00	\$ 92.00	\$ 42.00	
Task 1 - Meetings (1 informal mtg with staff + 1 informal mtg with Commissioner)	3.00	3.00	0.00	0.00	0.00	6.00
Task 2 - Review Background Studies	1.00	2.00	2.00	0.00	0.00	5.00
Task 3 - Traffic Counts	0.00	0.00	0.00	2.00	0.00	2.00
Task 4 - Field Review (AM, MD, PM)	0.00	0.00	9.00	0.00	0.00	9.00
Task 5 - Existing LOS - SIGNAL 2000 (AM, MD, PM)	0.00	1.00	2.00	7.00	0.00	10.00
Task 6A - 2021 Volume Forecasts (3 Alts, AM, MD, PM, No FSUTMS)	0.00	1.00	4.00	11.00	0.00	16.00
Task 6B - 2021 LOS - SIGNAL 2000 (3 Alts - AM, MD, PM)	0.00	2.00	2.00	20.00	0.00	24.00
Task 7A - Draft Study Report (3 copies)	2.00	4.00	18.00	6.00	0.00	30.00
Task 7B - Final Study Report (3 copies)	1.00	2.00	6.00	1.00	0.00	10.00
Total Labor Hours	7.00	15.00	43.00	47.00	0.00	112.00
Total Labor Fee	\$ 1,078	\$ 1,905	\$ 4,687	\$ 4,324	\$ -	\$ 11,994

Total Labor = \$ 11,994

Reimbursable Expenses

6-hr TMCs @ 2 intersections =	\$ 777
6-hr Manual Count on Flyover =	\$ 353
72-hr Machine @ 2 locations =	\$ 600
Mileage =	\$ 50
Reproduction/Binding =	\$ 200
Shipping/Mailing =	\$ -

Total Out-of-Pocket Expenses = \$ 1,980

TOTAL LUMP SUM FEE = \$ 13,974

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Resolution authorizing the appropriation of twenty percent (approx. \$360,000) of the Miami Beach share of the transit surtax proceeds levied by the County between January and September 2003, to replace certain no longer available Federal and State funds, as well as fare collection revenues included in the funding packet for the FY 2002-03 Electrowave Operating Budget, adopted by Resolution No. 2002-25012, dated 9/26/02.

Issue:

Shall the City appropriate transit surtax proceeds to replace Federal and State funds, and projected fare collection revenues in the current Electrowave Budget?

Item Summary/Recommendation:

Included among the funding sources for the \$2.31 million FY 2002-03 Electrowave Operating Budget, adopted on 09/26/02, were \$300,000 in Federal CMAQ funds for the Collins Route service, \$350,000 in FDOT funds for an enhanced portion (2 buses) of the Washington Route, and a projected \$100,000 in fare collection revenues. The City projects receiving lesser reimbursements from the above-mentioned funds resulting in a budget shortfall of approximately \$360,000 in FY 2002-03, due to the following reasons:

- 1) Minus \$200,000 (of \$300,000) in CMAQ funds due to elimination of the Collins Route in February 2003;
- 2) Minus approximately \$140,000 (of \$350,000) in FDOT funds. In FY 2002-03, the City should have budgeted only \$210,000 to fund the 50% FDOT match for two buses on the Washington Route; and
- 3) Minus \$20,000 (of \$100,000) in projected fare collection revenues caused by the fact that the County extended free ride to all seniors, regardless of income, as a result of the voters' approval of the transit surtax initiative. The Administration proposes to replace the funding shortfall with the appropriation and utilization of 20% (or approximately \$360,000) of Miami Beach's first year (January–September 2003) transit surtax share. Transit surtax collection began January 1, 2003. Transit surtax proceeds are to benefit transportation and transit projects Countywide. County Ordinance No. 02-116 provides that twenty percent (20%) of the net surtax proceeds be distributed to the "eligible municipalities" on a pro-rata basis, based upon population; and that 20% of each individual city share be utilized to fund local transit projects and/or initiatives, such as the Electrowave. Miami Beach is due to receive approximately \$1.8 million in the January to September 2003 period; and approximately \$2.5 million in each subsequent fiscal year. The Administration recommends approval of the Resolution.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account	Approved
	1	\$360,000	187.8000.312910 (Revenue Acct.)	
	2			
	3			
	4			
	Total	\$360,000		

Finance Dept.

City Clerk's Office Legislative Tracking:

Amelia Johnson

Sign-Offs:

Department Director	Assistant City Manager	City Manager

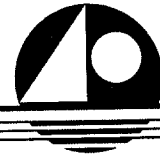
AGENDA ITEM

C7I

DATE 9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATION OF TWENTY PERCENT (APPROXIMATELY \$360,000) OF THE MIAMI BEACH SHARE OF THE CHARTER COUNTY TRANSIT SURTAX PROCEEDS, LEVIED BY MIAMI-DADE COUNTY BETWEEN JANUARY AND SEPTEMBER 2003, TO REPLACE NO LONGER AVAILABLE FEDERAL AND STATE FUNDS, AND PROJECTED FARE COLLECTION REVENUES INCLUDED IN THE FUNDING PACKET FOR THE FISCAL YEAR 2002-03 ELECTROWAVE OPERATING BUDGET, ADOPTED BY RESOLUTION NO. 2002-25012, DATED SEPTEMBER 26, 2002.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

Resolution No. 2002-25012, dated September 26, 2002, adopted the following funding packet to cover Electrowave operations during FY 2002-03:

Parking Enterprise Retained Earnings	\$1,240,000
Federal Congestion Mitigation and Air Quality (CMAQ)/Collins Rte.	300,000
FDOT Service Development Program/Washington Route	350,000
Concurrency Mitigation Funds/South Beach	300,000
Projected Fare Collection Revenues	100,000
Projected On-Board Advertising Revenues	20,000
For a total of	<u>\$2,310,000</u>

A FY 2002-03 Electrowave funding shortfall of approximately \$360,000 is projected due to the fact that certain budgeted funds will be no longer available for the following reasons:

- Minus **\$200,000** (of \$300,000 or \$25,000 per month) in Federal Congestion Mitigation and Air Quality (CMAQ) dedicated exclusively to the Collins Route service, that was discontinued by the City in February 2003. Therefore, CMAQ will reimburse the City approximately \$100,000 (4 months at \$25,000 each); and

- Minus approximately **\$140,000** of the \$350,000 in FDOT funds dedicated exclusively to fund, on a 50/50 match, the operating cost of 2 buses of the Washington Route service. This particular shortfall was due to an administrative mistake during the budgeting process. Although the adopted Joint Participation Agreement (JPA) with FDOT was for \$350,000 for three years, the City should have budgeted only an amount that could be allocated during FY 2002-03, or approximately \$210,000. The over-allocated amount of \$140,000 will be carried over to future Electrowave budget years; and
- Minus **\$20,000** in fare collection revenues due to the fact that the County extended free ride to all seniors, regardless of income (including tourists), as a result of the voters' approval of the transit surtax initiative in November 2003.

The \$360,000 budget shortfall is a projected figure only, and may vary slightly up or down when the actual expenditures for FY 2002-03 Electrowave operations are reconciled.

Proposed Transit Surtax Funds to Cover Shortfall: As replacement funds to the above-mentioned funding shortfall, the Administration proposes to utilize twenty percent (20%), or approximately \$360,000, out of the \$1.8 million Miami Beach is projected to receive from the County transit surtax proceeds collected between January and September 2003.

Transit surtax history: On November 5, 2002, the Miami-Dade County voters approved the levy of a one-half of one percent discretionary transit surtax on the State sales tax, for transactions occurring in Miami-Dade County. The proceeds of such transit surtax are to benefit qualified transportation and transit projects Countywide. Transit surtax collection began January 1, 2003.

The County estimates that \$23,500,499 will be collected in January-September 2003, and \$31,334,000 in FY 2003-04. County Ordinance No. 02-116 provides that a portion (20%) of the net transit surtax proceeds will be distributed annually to the eligible municipalities, on a pro-rata basis based upon population. It is estimated that Miami Beach will receive approximately \$1.8 million for the January-September 2003 period, and \$2.5 million in each subsequent fiscal year. Pursuant to the same County Ordinance, Miami Beach is required to utilize 20% of its share for local transit projects and/or initiatives, such as the Electrowave; and the transit surtax funds are to supplement, not replace the usual City contribution to the local transit effort.

Per County Ordinance requirements and previous actions of the City Commission, the Miami Beach share of the transit surtax proceeds for the January-September 2003 period, in the approximate amount of \$1.8 million, shall be expended as follows:

- | | |
|---|----------------|
| • Washington Ave. Corridor Improvements, Phases I, IV, and V | \$1,280,000 |
| • Evaluation of Rapid Transit Options Study (HDR Eng. Inc.) | 160,000 |
| • Electrowave Operating Support (20% required by County Ord.) | <u>360,000</u> |
| For a total transit surtax funds of | \$1,800,000 |

September 10, 2003
Commission Memorandum
Transit Surtax Funds for Electrowave Budget
Page 3

The appropriation of approximately \$360,000 in January-September 2003 transit surtax fund proceeds is appropriate and timely as replacement to the no longer available funds in the adopted FY 2002-03 Electrowave Operating Budget. The Administration recommends approval of the Resolution.

JG/RM/FB/JC/AJ

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATION OF TWENTY PERCENT (APPROXIMATELY \$360,000) OF THE MIAMI BEACH SHARE OF THE CHARTER COUNTY TRANSIT SURTAX PROCEEDS, LEVIED BY MIAMI-DADE COUNTY BETWEEN JANUARY AND SEPTEMBER 2003, TO REPLACE NO LONGER AVAILABLE FEDERAL AND STATE FUNDS, AND PROJECTED FARE COLLECTION REVENUES INCLUDED IN THE FUNDING PACKET FOR THE FISCAL YEAR 2002-03 ELECTROWAVE OPERATING BUDGET ADOPTED BY RESOLUTION NO. 2002-25012, DATED SEPTEMBER 26, 2002.

WHEREAS, Resolution No. 2002-25012, dated September 26, 2002, adopted a \$2.31 million funding packet for the FY 2002-03 Electrowave Operating Budget, which included among the funding sources \$300,000 in Federal Congestion Mitigation and Air Quality (CMAQ) funds for the Collins Route service; \$350,000 in Florida Department of Transportation (FDOT) funds for an enhanced portion of the Washington Route service; and \$100,000 in projected fare revenue collections; and

WHEREAS, the City eliminated the Collins Route service in February 2003, and is projected to lose approximately \$200,000 of the \$300,000 in CMAQ funds, above mentioned; the matching fund ratio was 80% CMAQ and 20% City; and

WHEREAS, the City projects it will be reimbursed for approximately \$210,000 of the \$350,000 in FDOT/JPA funds budgeted in FY 2002-03, resulting in a shortfall of approximately \$140,000; this was due to an administrative error in the budgeting process, which accounted for more funds that could possibly be reimbursed in a fiscal year; and

WHEREAS, the City projects it will collect only \$80,000 of the budgeted \$100,000 in transit fare collections, due to the fact that, beginning January 1, 2003, the Miami-Dade County transit surtax initiative extended free ride for all senior citizens, regardless of income; and

WHEREAS, it is estimated that Miami Beach will receive approximately \$1.8 million in transit surtax proceeds collected by the County from January to September 2003; and

WHEREAS, County Ordinance No. 02-116 requires that Miami Beach utilize 20% of its annual share of transit surtax funds to subsidize transit projects and/or initiatives, such as the Electrowave; and

WHEREAS, the Administration proposes to utilize the \$360,000 in January-September 2003 transit surtax funds to replace the projected Electrowave budget shortfall.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve and authorize the appropriation of twenty percent (approximately \$360,000) of the Miami Beach share of the Charter County transit surtax proceeds, levied by Miami-Dade County between January and September 2003, to replace no longer available Federal and State funds, and projected fare collection revenues included in the funding packet for the Fiscal Year 2002-03 Electrowave Operating Budget, adopted by Resolution No. 2002-25012, dated September 26, 2002.

PASSED AND APPROVED this the _____ day of _____, 2003.

MAYOR

ATTEST:

CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

2-3-03
Date

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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Waive by 5/7ths vote, formal competitive bidding requirements and authorize the Mayor and City Clerk to execute an agreement with AshBritt, Inc., for disaster planning and recovery services.

Issue:

Shall the Mayor and the City Commission waive competitive bidding requirements and authorize the Mayor and City Clerk to enter into an agreement with AshBritt, Inc.?

Item Summary/Recommendation:

In the event of an emergency, such as a hurricane, the City would lack sufficient resources to undertake recovery operations. The City currently has an agreement for disaster recovery services with Grubbs Emergency Services, Inc., and adding a second company would provide the City additional primary or back-up capability and flexibility in the event of a major disaster. AshBritt, Inc., (AshBritt) has provided the City pricing that is more competitive than Grubbs and is a premier national company with an outstanding record of performance in disaster recovery operations.

Under the terms of the attached agreement AshBritt will remove as quickly as possible all hazards to life and property resulting in the City of Miami Beach. Clean up, demolition and removal will be limited to (1) that which is determined to eliminate immediate threats to life, public health, and safety; (2) that which has been determined to eliminate immediate threats of significant damage to improved public or private property, and; (3) that which is considered essential to ensure economic recovery of the affected community to the benefit of the community-at-large. The service provided by AshBritt shall consist of clean up, demolition, removal, reduction and disposal of debris as directed by the designated representative of the City. AshBritt will also provide, under the terms of the attached agreement, disaster recovery technical assistance to appointed and elected officials within the City. This service shall include program Management Assistance.

The Administration recommends approval of the Resolution.

Advisory Board Recommendation:

N/A




Financial Information:

Source of Funds:		Amount	Account	Approved
<div style="border: 1px solid black; width: 80px; height: 80px; margin: 0 auto;"></div> Finance Dept.	1			
	2			
	3			
	4			
	Total			

City Clerk's Office Legislative Tracking:

T:\AGENDA\2003\sep1003\consent\AshBritt CIS.doc

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL FHB 		

AGENDA ITEM C 75

DATE 9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, WAIVING BY 5/7ths VOTE, THE FORMAL COMPETITIVE BIDDING REQUIREMENTS AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH ASHBRIIT, INC. FOR DISASTER PLANNING AND RECOVERY SERVICES, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

In the event of an emergency, such as a hurricane, the City would lack sufficient resources to undertake recovery operations. While assistance is available from the County, State and Federal governments, it is not sufficient to restore a community that has suffered a catastrophic disaster. Also, the resources of the various governments are spread thin over the affected areas, necessitating contracted private sector assistance.

The City currently has an agreement for disaster recovery services with Grubbs Emergency Services, Inc., (Grubbs) and adding a second company would provide the City additional primary or back-up capability and flexibility in the event of a major disaster. AshBritt, Inc., (AshBritt) has provided the City pricing that is more competitive than Grubbs and is a premier national company with an outstanding record of performance in disaster recovery operations. The benefits of contracting with AshBritt for disaster planning and recovery services are as follows:

1. AshBritt is not overly saturated in the Miami-Dade County area. The City of South Miami and the Town of Palmetto Bay are the only AshBritt clients. These two municipalities are piggybacked from the Broward County contract which was awarded through a competitive request for proposal process.
2. AshBritt's pricing is 20% less than that of the current Miami Beach disaster response contractor (Grubbs).
3. AshBritt has agreed to add language to the City's contract that allows for a potential reduction in contract price for a minor storm if market conditions warrant the action. This clause, as recommended by FEMA, protects the City from over pricing in a minor storm.
4. AshBritt maintains a fleet of company owned grapple trucks designed specifically for debris collection equipment to lessen the dependence on subcontractor equipment and personnel.
5. AshBritt will provide annual disaster recovery preparedness training for the City and

their staff to ensure that City employees are aware of the current disaster recovery rules and regulations

6. AshBritt has three additional divisions within the corporate structure (Engineering, Environmental Services, and Waste Services) that support the Disaster Response Division.
7. AshBritt is domiciled in South Florida (Pompano Beach).
8. AshBritt maintains a full time Technical Assistance staff to assist the City with State and Federal grant issues related to disaster recovery programs.
9. AshBritt is financially stable and is diversified in several profitable businesses (engineering, environmental services, commercial solid waste collection) that are complimentary to the disaster response division.

In the event of a declared emergency and the emergency is of sufficient magnitude that the City needs to utilize disaster related services, those services are generally subject to reimbursement by the County, State and Federal governments. FEMA as the principal federal agency dealing with disaster recovery prefers that agreements for disaster services be put in place prior to an emergency and where possible, the services be obtained by the bidding process. Therefore, it is the Administration's recommendation that the City Commission adopt the attached resolution which authorizes the Mayor and City Clerk to execute an agreement with AshBritt, Inc. for disaster planning and recovery services.


JMG:RCM:FB:GL

Attachment: AshBritt Agreement

T:\AGENDA\2003\sep1003\consent\AshBritt.doc

RESOLUTION TO BE SUBMITTED

AGREEMENT
BETWEEN
CITY OF MIAMI BEACH
AND
ASHBRITT, INC.
FOR
DISASTER RECOVERY SERVICES

WHEREAS, City of Miami Beach, a City of the State of Florida, may experience destruction of life and property because of hurricanes, floods, tornadoes, and other weather events as well as other natural or technological disasters; and

WHEREAS, governing bodies of political subdivisions of the State of Florida need to provide for disaster recovery technical and support assistance; and

WHEREAS, although City of Miami Beach has personnel, equipment, and price agreements in place to manage disaster recovery for most emergency situations, a major catastrophe may overwhelm local capabilities to the point that outside assistance will be required; and

WHEREAS, during a state or local state of emergency the City Manager may deem it necessary to issue notices to proceed with certain disaster services, Now, Therefore,

This is an Agreement, made and entered into by and between: City of Miami Beach, a political subdivision of the State of Florida, herein after referred to as "City",

And

Ashbritt, Inc, a Florida Corporation, hereinafter referred to as "Ashbritt".

In Consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, City and Ashbritt agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

- 1.1 **Agreement** - means this document, articles 1 through 9, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 **Commission** – Commission of the City of Miami Beach.
- 1.3 **City Manager** - The City of Miami Beach Manager or the designee of such City Manager. The primary responsibilities of the City Manager are to coordinate and communicate with Ashbritt and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this agreement, as set forth herein. In the administration of this Agreement, as contrasted with the matters of policy, all parties may rely on instructions or determinations made by the City Manager; provided, however, that such instructions and determinations do not change the scope of Services.
- 1.4 **City Attorney** - The chief legal counsel for City.
- 1.5 **Project** - The Project consists of the services described in Article 2.

ARTICLE 2

SCOPE OF SERVICES

- 2.1 Ashbritt shall perform all work identified in this agreement and "Exhibit A" and "Exhibit D". The parties agree that the scope of services is a description of Ashbritt's obligations and responsibilities and is deemed to include preliminary consideration and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by Ashbritt impractical, illogical, or unconscionable. This agreement does not establish exclusive rights on the part of Ashbritt and the City may at its option retain additional contractors to assist in disaster recovery efforts.
- 2.2 Ashbritt acknowledges and agrees that the City Manager has no authority to make changes that would increase, decrease, or otherwise modify the scope of services to be provided under this agreement.
- 2.3 All work will be described by a work authorization form that will be signed by the City Manager and shall describe the extent and limits of each task. No work shall be compensated that is not in accordance with an approved work authorization. The prescribed work authorization form is attached as "Exhibit E".

ARTICLE 3

TERM AND TIME OF PERFORMANCE

- 3.1 The term of this agreement shall begin on the date it is fully executed by both parties and shall end on December 31, 2002; provided, however, if the term of this agreement extends beyond a single fiscal year of City, the continuation of this agreement beyond the end of any fiscal year shall be subject to the availability of funds from the City in accordance with Chapter 129, Florida Statutes.
- 3.2 Time shall be deemed of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 4

COMPENSATION

- 4.1 City agrees to pay Ashbritt, in the manner specified in Section 4.2, for work actually performed and completed pursuant to this agreement and as detailed in an approved work authorization, which amount shall be accepted by Ashbritt as full compensation for all such work. It is acknowledged and agreed by Ashbritt that this amount is the maximum payable and constitutes a limitation upon City's obligation to compensate Ashbritt for its services related to this agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon Ashbritt's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. Ashbritt is only eligible for compensation for specifically approved and successfully completed work authorizations. No amount shall be paid to Ashbritt to reimburse its expenses. Work authorization costs connected to Exhibits "A" and "D" shall be payable based on a standard of reasonableness, but in no circumstance shall City be liable to Ashbritt for costs that exceed reasonable costs as determined by the Federal Emergency Management Agency (FEMA). Ashbritt shall reimburse costs paid by City to Ashbritt at rates that are determined by FEMA as not reasonable to City.

4.2 Method of Billing and Payment

- 4.2.1 Ashbritt may submit invoices for compensation no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except the final invoice which must be received no later than sixty (60) days after this agreement expires. Invoices shall reference the specific work authorization and approval date and designate the nature of the services performed and/or the expenses incurred.
- 4.2.2 Ashbritt hereby waves all rights to make claims for prompt payment that Ashbritt may accrue pursuant to the "City of Miami Beach Prompt Payment Ordinance" and general statutory laws relating to prompt payment or both.

4.3 Notwithstanding any provision of this Agreement to the contrary, City may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by the City.

4.4 Payment shall be made to Ashbritt at:

Ashbritt, Inc.
1280 SW 36th Ave.
Suite 102
Pompano Beach, Fl 33069

ARTICLE 5

CHANGES IN SCOPE OF SERVICES

5.1 Any change in Scope of Services must be accompanied by a written amendment, executed by the parties in accordance with Section 9.18 below.

ARTICLE 6

INDEMNIFICATION

6.1 Ashbritt shall at all times hereafter indemnify, hold harmless and, at City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend City, its officers, agents, servant, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused by negligent act or omission of Ashbritt, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by City Manager and City Attorney, any sums due Ashbritt under this agreement may be retained by the City until all of City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by the City.

ARTICLE 7

INSURANCE

- 7.1 In order to insure the indemnification obligation contained above, Ashbritt shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this agreement (unless otherwise provided), the insurance coverage's as set forth in Sections 7.3, 7.4, and 7.5, in accordance with the terms and conditions required by this article. Each Insurance policy shall clearly identify the foregoing indemnification as insured.
- 7.2 Such policy or policies shall be without any deductible amount and shall be issued by approved companies authorized to do business in the state of Florida, and having agents upon whom service of process may be made in City of Miami Beach, Florida. Ashbritt shall specifically protect the City and the City of Miami Beach Commissioners by naming the City and the City of Miami Beach Commissioners as additional insured under the Comprehensive General Liability policy only.
- 7.3 **Comprehensive General Liability insurance.** A Comprehensive General Liability insurance Policy shall be provided which shall contain minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence combined single limit for bodily injury liability and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

Premises and /or operations

Independent Contractors

Products and/or Completed Operations for contracts

Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification agreement.

Personal Injury coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for bodily injure liability and Property damage liability.

- 7.4 **Business Automobile Liability.** Business Automobile liability with minimum limits of Three Hundred Thousand Dollars (\$300,000.00) per occurrence combined single limit for bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

Owned Vehicles

Hired and Non-owned Vehicles

Employers' Non-Ownership

- 7.5 **Worker's Compensation Insurance.** Worker's compensation Insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include:

Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) each accident.

If any operations are to be undertaken on or about navigable waters, coverage must be included for the US Longshoremen & Harbor Workers Act and Jones Act.

- 7.6 Ashbritt shall furnish to the City Manager Certificates of Insurance or endorsements evidencing the insurance coverage's specified by this Article prior to beginning performance of work under this agreement.
- 7.7 Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Ashbritt is completed. All policies must be endorsed to provide City with at least thirty (30) days notice of cancellation and/or restriction. If any of the insurance coverage's will expire prior to the completion of work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

ARTICLE 8

TERMINATION

- 8.1 This agreement may be terminated for cause by action of the Commission or by Ashbritt if the party in breach has not corrected the breach within ten (100 calendar days after written notice from the aggrieved party identifying the breach, or for convenience by action of Commission upon not less than sixty (60) calendar days' written notice by City Manager. This Agreement may also be terminated by City Manager upon such notice, as City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare. Failure to perform in accordance with a work authorization may, at the City's option, result in immediate termination of this agreement for cause.
- 8.2 Termination of this agreement for cause shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of City as set forth in this agreement and detailed in an approved work authorization, or multiple breach of the provisions of this Agreement not withstanding whether any such breach was previously waived or cured.
- 8.3 Notice of termination shall be provided in accordance with the "Notices" section of this agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "Notices" section of this agreement.

- 8.4 In the event this agreement is terminated for convenience, Ashbritt shall be paid for any services performed to date the Agreement is terminated; however, upon being notified of City's election to terminate, Ashbritt shall refrain from performing further services or incurring additional expenses under the terms of this agreement. Ashbritt acknowledges and agrees that one hundred dollars (\$100.00) of the compensation to be paid by City, the adequacy of which is hereby acknowledged by Ashbritt, is given as specific consideration to Ashbritt for City's right to terminate this agreement for convenience.
- 8.5 In the event this agreement is terminated, any compensation payable by the City shall be withheld until all documents are provided to City pursuant to Section 9.1 of Article 9.

ARTICLE 9

MISCELLANEOUS

- 9.1 **Ownership of Documents** - Any and all reports, photographs, surveys and other data and documents provided or created in connection with this agreement are and shall remain the property of City. In the event of termination of this agreement, any reports, photographs, surveys, and other data and documents prepared by Ashbritt, whether finished or unfinished, shall become the property of City and shall be delivered by Ashbritt to the City Manager within seven (7) days of termination of this agreement by either party. Any compensation due to Ashbritt shall be withheld until all documents are received as provided herein.
- 9.2 **Audit Right and Retention of Records** - City shall have the assignable right (to FEMA, for example) to audit the books, records, and accounts of Ashbritt that are related to this project. Ashbritt shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the project

Ashbritt shall preserve and make available, at reasonable times for examination and audit by City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (chapter 119, Fla. Stat.), if applicable, or if the Florida Public Records Act is not applicable, for a minimum period of three years after termination of this agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by City to be applicable to Ashbritt's records, Ashbritt shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Ashbritt. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City's disallowance and recovery of any payment upon such entry.

- 9.3 **Nondiscrimination, Equal Employment Opportunity, and Americans with Disabilities Act** - Ashbritt shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this agreement. Ashbritt shall affirmatively comply with all applicable provisions of the Americans with disabilities Act (ADA) in the course of providing any services funded by the City, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines and standards. In addition, Ashbritt shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

Ashbritt's decisions regarding the delivery of services under this agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (City of Miami Beach Code, Chapter 16 1/2), national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

- 9.4 **Public Entity Crime** - Ashbritt represents that the execution of this agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on leases of real

property to City, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this agreement and recovery of all monies paid hereto, and may result in debarment from City's competitive procurement activities.

In addition to the foregoing, Ashbritt further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Ashbritt has been placed on the convicted vendor list.

- 9.5 **Independent contractor** - Ashbritt is an independent contractor under this Agreement. Services provided by Ashbritt pursuant to this agreement shall be subject to the supervision of Ashbritt. In providing such services, neither Ashbritt nor its agents shall act as officers, employees, or agents of the City. This agreement shall not constitute or make the parties a partnership or joint venture.
- 9.6 **Prevailing wage requirement**- If construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Ashbritt as a result of this agreement, shall be deemed to apply to such construction work; and further Ashbritt shall fully comply with the requirements of such ordinance and shall satisfy, comply with, and complete the requirements set forth in Exhibits B and C.
- 9.7 **Third Party Beneficiaries**- Neither Ashbritt nor City intend to directly or substantially benefit a third party Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.
- 9.8 **Notices**- Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

For City of Miami Beach:

Robert C. Middaugh
City of Miami Beach
1700 Convention Center Dr
Miami Beach, FL 33139

For Ashbritt:

Mr. Randall Perkins, Vice President
Ashbritt, Inc.
1280 SW 36 Avenue
Suite 102
Pompano Beach, FL 33069

- 9.9 **Assignment and Performance**- Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party. In addition, Ashbritt shall not assign any portion of the work required by this Agreement. It is envisioned that substantial sub contracting will take place on the part of Ashbritt in order to accomplish approved work authorizations. Ashbritt will provide an updated list of subcontractors on a daily basis to the City Project Manager.

Ashbritt represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and approved work authorization services to City's satisfaction for the agreed compensation.

Ashbritt shall perform its duties, obligations, and services under this Agreement in a skillful and respectful manner. The quality of Ashbritt's performance and all interim and final product(s) provided to or on behalf of City shall be comparable to the best local and national standards.

- 9.10 **Conflicts-** Neither Ashbritt nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Ashbritt's loyal and conscientious exercise of judgment related to its performance under this Agreement.

Ashbritt agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, Ashbritt agrees that such persons shall not give sworn testimony or issue a report of writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of the City in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude Ashbritt or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event Ashbritt is permitted to utilize subcontractors to perform any services required by this Agreement, Ashbritt agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

- 9.11 **Contingency Fee-** Ashbritt warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Ashbritt, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Ashbritt, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, City shall have the right to terminate this Agreement without liability at this discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

- 9.12 City and Ashbritt agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

- 9.13 **Compliance with Laws-** Ashbritt shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

- 9.14 **Severance-** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid; the remaining provisions shall continue to be effective unless City or Ashbritt elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

- 9.15 **Joint Preparation-** The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be constructed more severely against one of the parties than the other.

- 9.16 **Priority Of Provisions-** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, requirement, or provision of this Agreement the term statement requirement, or provision contained in Articles 1 through 9 of this Agreement shall prevail and be given effect.

- 9.17 **Applicable Law and Venue-** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Eleventh Judicial Circuit of Miami-Dade County, Florida. By entering into this Agreement, Ashbritt and

City hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to, or arising out of the Project.

9.18 **Amendments-** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Commission and Ashbritt.

9.19 **Prior Agreements-** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless set forth in writing in accordance with Section 9.18 above.

9.20 **Incorporation by Reference-** The attached exhibits A, B, C, D, and E are incorporated into and made a part of this Agreement.

9.21 **Multiple Originals-** This Agreement may be fully executed in three (3) copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

IN WITNESS WHEREOF, the parties hereto have made and executed this agreement: CITY OF MIAMI BEACH through its COMMISSION, signing by and through its Chair or Vice Chair, authorized to execute same by Commission action on the ____ day of _____, 200, and ASHBRIIT, signing by and through its President, duly authorized to execute same.

AGREEMENT BETWEEN CITY OF MIAMI BEACH AND ASHBRIIT, INC. FOR DISASTER RECOVERY SERVICES

CITY

ATTEST:

CITY OF MIAMI BEACH, by and through
its Commission

City of Miami Beach

Chair

____ day of _____, ____.

Approved as to form by

By _____

By _____

AGREEMENT BETWEEN CITY OF MIAMI BEACH AND ASHBRIIT, INC., FOR DISASTER RECOVERY SERVICES

ASHBRIIT, INC.

WITNESSES:

By _____
Sally Perkins, President

____ day of _____, 2001.

EXHIBIT A

1. **Debris Management.** ASHBTRIT shall remove all hazards to life and property resulting from the disaster. Clean-up, demolition, and removal shall be work authorization approved by the CITY Project Manager by individual work authorizations. Clean-up, demolition, and removal shall be limited to eligible debris. Eligible debris is that which after its clean-up, demolition, and removal: 1) eliminates immediate threats to life, public health, and safety; 2) eliminates threats of significant damage to improved public or private property; and 3) is essential by its absence of ensuring economic recovery. Scope of Services shall include items such as emergency road clearance, debris removal from public rights-of-way, removal of hazardous stumps, leaning trees/limbs, temporary debris staging areas and reduction sites, debris disposal, hazardous waste abatement, and sand screening, etc.
2. **Technical Disaster Recovery Assistance.** ASHBTRIT shall provide disaster recovery technical assistance to elected and appointed officials of CITY government. This assistance shall include documentation and management for the public assistance program, planning, training, and exercise development, as well as attendance at the City of Miami Beach Emergency Operations Center (EOC) during activation of the EOC for exercise and actual emergency events as requested by the City Manager.
3. **Temporary Satellite Communications.** ASHBTRIT shall provide Temporary Satellite Communications equipment and "on-air" talk time to the CITY to facilitate emergency communications within the CITY and with outside agencies because of the loss of communications capability. Specifically, ASHBTRIT shall provide the satellite communications equipment and space time as listed in the work authorizations and the notice to proceed.
4. **Emergency Power Generators.** ASHBTRIT shall provide Temporary Emergency Power Generators to CITY to supply temporary electricity to critical facilities because of power failures. Specifically, ASHBTRIT shall provide the power generation equipment to the capacity and quantity as listed in the work authorizations and the notice to proceed.
5. **Emergency Delivery of Ice.** ASHBTRIT shall provide an Emergency Supply of Ice to CITY to facilitate food storage and other life sustaining measures. Specifically, ASHBTRIT shall provide the ice within the specifications and quantities as listed in the work authorizations and the notice to proceed.
6. **Emergency Delivery of Potable Water.** ASHBTRIT shall provide an Emergency Supply of Potable Water to CITY to facilitate a safe supply of water for human consumption, cooking of food, and other life sustaining measures. Specifically, ASHBTRIT shall provide the potable water within the specifications and quantities as listed in the work authorizations and the notice to proceed. Ashbtrrit will also provide portable sanitary toilet facilities for the City Municipal complex.
7. **Emergency Equipment Rental, Labor, Materials, and Supplies.** ASHBTRIT shall provide Emergency Rental of Light, Medium, and Heavy Equipment; Trucks and other Vehicles; Labor; Materials; and Supplies as requested by CITY. Specifically, ASHBTRIT shall provide the rental of light, medium, and heavy equipment; trucks and other vehicles; labor; materials; and supplies as listed in the work authorizations and the notice to proceed.
8. **Logistical Staging Areas.** ASHBTRIT shall provide for the operation and management of Logistical Staging Areas to facilitate disaster recovery operations. Specifically, ASHBTRIT shall provide for the supplies and labor for the operations and management needed to establish and operate Logistical Staging Areas within the specifications and quantities as listed in the work authorizations and the notice to proceed.
9. **Services and Facilities.** ASHBTRIT shall provide and pay for all labor, tools, equipment, transportation, supervision, and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the services within the term specified in the work authorization. All work authorizations involving a time and materials portion of this Agreement shall have a not-to-exceed amount placed within them.
10. **Permits and Licenses.** ASHBTRIT shall obtain, with the assistance of CITY, Permits and Licenses of a temporary nature necessary for the prosecution of Services. ASHBTRIT shall not be responsible to obtain permits or

licenses where the requirement for which has or will be waived because of a declaration of emergency or disaster.

11. Supervision by ASHBRIIT. Under the general oversight of the CITY, ASHBRIIT shall supervise and direct all work, workers, and equipment. ASHBRIIT is solely responsible for the means, methods, techniques, sequences, safety program, and procedures utilized. ASHBRIIT shall employ and maintain on the work site a qualified supervisor(s) who shall have full authority to act on behalf of ASHBRIIT, and all communications given to the supervisor in writing by the CITY'S Authorized Representative shall be as binding as if given to ASHBRIIT.
12. Other Related Work. ASHBRIIT shall perform other related work as directed by the City Manager.

EXHIBIT B

Prevailing Wage Rates: Providing that, in all non-federally funded construction procurement activity of \$250,000 or more, the rate of wages and fringe benefit payments for all laborers, mechanics, and apprentices shall not be less than those payments for similar skills in classifications of work in like industries as determined by the Secretary of Labor and as published in the Federal Register (latest revision).

- 10 **Prevailing Wage Rate Ordinance.** This Project is not federally funded. If the construction cost is in excess of \$250,000, the following sections shall apply:
- 1.1. The rate of wages and fringe benefit payments for all laborers, mechanics, and apprentices shall not be less than those payments for similar skills in classifications of work in a like construction industry as determined by the Secretary of Labor and as published in the Federal Register (latest revision).
 - 1.2. All mechanics, laborers, and apprentices, employed or working directly upon the site of the work shall be paid in accordance with the above-referenced wage rates. ASHBRIIT shall post notice of these provisions at the site of the work in a prominent place where it can be easily seen by the workers.
 - 1.3. If the parties cannot agree on the proper classification of a particular class of laborers or mechanics or apprentices to be used, the City Manager shall submit the question, together with its recommendation, to the City Manager for final determination.
 - 1.4. In the event it is found by the City Manager that any laborer or mechanic or apprentice employed by ASHBRIIT, or any Subcontractor directly on the site of the work has been or is being paid at a rate of wages less than the rate of wages required by the ordinance, the City Manager may: (1) by written notice to ASHBRIIT terminate its right to proceed with the work or such part of work for which there has been a failure to pay said required wages; and (2) prosecute the work or portion thereof to completion by contract or otherwise. Whereupon, ASHBRIIT and its sureties shall be liable to CITY for any excess costs occasioned to CITY thereby.
 - 1.5. Sections 1.1 through 1.4 above shall apply to this Contract to the extent that it is: (1) a prime Contract subject to the ordinance; or (2) a subcontract also subject to the ordinance under such prime Contract.
 - 1.6. ASHBRIIT shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve such for a period of three (3) years thereafter for all laborers, mechanics, and apprentices working at the site of the work. Such records shall contain the name and address of each such employee; its current classification; rate of pay (including rates of contributions for, or costs assumed to provide, fringe benefits); daily and weekly number of hours worked; deductions made; and actual wages paid.
 - 1.7. ASHBRIIT shall submit, with each requisition for payment, a signed and sworn "Statement of Compliance" attesting to compliance with City of Miami Beach. The Statement shall be in the form attached as Exhibit C.
 - 1.8. The City Manager may withhold or cause to be withheld from ASHBRIIT so much of the payments requisitioned as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, watchpersons, and guards employed by ASHBRIIT or any subcontractor on the work, the full amount of wages required by this Agreement.
 - 1.9. If ASHBRIIT or any subcontractor fails to pay any laborer, mechanic, or apprentice employed or working on the site of the work all or part of the wages required by this Agreement, the City Manager may, after written notice to ASHBRIIT, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

EXHIBIT C
STATEMENT OF COMPLIANCE
(PREVAILING WAGE RATE)

No. _____

Contract No. _____

Project Title _____

The undersigned ASHBRIIT hereby swears under penalty of perjury that, during the period covered by the application for payment to which this statement is attached, all mechanics, laborers, and apprentices, employed or working on the site of the Project, have been paid at wage rates, and that the wage rates of payments, contributions, or costs for fringe benefits have not been less than those required by City of Miami Beach and the applicable conditions of this Agreement.

Dated _____, _____,

ASHBRIIT

By _____
(Signature)

By _____
(Name and Title)

STATE OF)
) SS.
CITY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, _____.

(NOTARY SEAL)

(Signature of person taking acknowledgment)

(Name of officer taking acknowledgment)
typed, printed or stamped

(Title or rank)

(Serial number, if any)

My commission expires:

Exhibit D

Disaster Recovery Services

RLI # 08100-00-RB

All prices noted in this attachment are considered a baseline estimate. Actual prices that will be charged will be justified at the time a work authorization is approved. All costs must be based upon reasonable expenses for labor, equipment, material, and overhead/profit. Under no circumstances will costs that exceed reimbursable limits acceptable to the Federal Emergency Management Agency (FEMA) be proposed or approved in a work authorization.

Emergency Road Clearance

AshBritt shall accomplish the cutting, tossing, and/or pushing of debris, hanging limbs, or leaning trees from primary roads as identified and directed by City of Miami Beach. The debris shall be stacked on the right-of-way to allow passage of vehicles along the primary transportation routes.

Compensation per attached hourly rate schedule.

Debris Removal from Public Right-of-Way

As directed by City of Miami Beach, AshBritt shall load and haul all eligible debris to a City designated Temporary Debris Storage and Reduction Site (TDSRS) or other disposal destination.

0 to 15 miles \$12.75 per cubic yard
16 to 30 miles \$15.75 per cubic yard

Debris Separation/Reduction and TDSRS Management

AshBritt shall operate and manage the TDSRS to accept and process all event debris. AshBritt shall perform any site preparation, to include but not limited to: (1) building and/or maintaining roads; (2) construction of a roofed inspection tower sufficient for a minimum of three inspectors; (3) any environmental requirements necessary to include wind control fencing, silt fencing, hazardous materials containment area, and/or water retention berms. All debris will be processed in accordance with all local, state and federal rules, standards and regulations. Processing may include, but is not limited to, reduction by tub grinding, incineration when approved, or other alternate methods of reduction such as compaction. Prior to reduction all debris will be segregated between vegetative debris, C&D, recyclable debris, white goods, and hazardous waste. Upon the closure of the TDSRS the site will be restored to its Pre-Use Condition.

Operation of TSDRS \$6.75 per cubic yard

Hazardous Stumps

AshBritt shall remove hazardous stumps as identified and directed by City of Miami Beach. Stump removal shall include backfilling the void with appropriate fill material and hauling the stump to the TDSRS.

Stumps up to 6 inches in diameter	\$ 125.00
Stumps greater than 12 inches, less than 24 inches	\$ 250.00
Stumps greater than 24 inches, less than 48 inches	\$ 500.00
Stumps equal to or greater than 48 inches	\$1250.00

Sand Screening

As directed by City of Miami Beach, AshBritt shall screen sand to remove all eligible debris deposited by the event. This process includes the collection of debris laden sand, transporting the sand to the processing screen located on the beach, processing the debris laden sand through the screen and returning the sand to the approximate original location. Debris removed from the sand will be collected, hauled, and processed as ROW debris.

Sand Screening \$12.00 per cubic yard

Final Disposal

AshBritt shall load and transport processed debris to from the TDSRS to a final disposal site as directed by City of Miami Beach.

0 to 15 miles \$7.00 per cubic yard
15 to 30 miles \$8.50 per cubic yard

Technical Assistance

AshBritt shall provide disaster recovery technical assistance to elected and appointed officials of City of Miami Beach. This service shall include documentation and management for the public assistance program, planning, training, and exercise development.

Service provided at no additional charge

Permits and Licensing

AshBritt shall obtain, with the assistance of City of Miami Beach, permits and licenses of a temporary nature necessary for the execution of the scope of services.

Service provided at no additional charge

Quality Assurance and Supervision

AshBritt shall provide sufficient supervision and programmatic controls to ensure compliance with procedural and regulatory standards established by FEMA, State of Florida, and City of Miami Beach.

Service provided at no additional charge

Temporary Satellite Communications

AshBritt shall provide temporary satellite communications equipment and service as directed by City of Miami Beach to facilitate emergency communications within City of Miami Beach and with state and federal agencies supporting City of Miami Beach's recovery effort.

Satellite Communications provided at actual equipment lease and airtime cost plus 15%

Emergency Delivery of Ice

As directed by City of Miami Beach, AshBritt shall provide an emergency supply of ice to facilitate food storage and other life sustaining measures. Ice is delivered by refrigerated trucks in 40,000 lb increments, with 20 pallets of bagged ice to each delivery.

Emergency Ice \$0.31 per pound*

Additional Charge for storage

Additional Charge for final distribution

Additional Charge for standby (waiting to unload) past 4 hours

Emergency Delivery of Potable Water

As directed by City of Miami Beach, AshBritt shall provide an emergency supply of water to facilitate a safe water supply for human consumption, cooking of food, and other life sustaining measures. Water is delivered by truck with 20 pallets per trailer.

Emergency Water \$1.90 per gallon*

\$0.15 per gallon to unload

Additional Charge for storage

Additional Charge for final distribution

Additional Charge for standby (waiting to unload) past 4 hours

Emergency Power Generators

As directed by City of Miami Beach, AshBritt has the capability to provide emergency power generators to supply temporary electricity to critical City facilities. Prior to establishing pricing for temporary generators it is necessary to collect technical information regarding the potential type and use of power at each facility indicated by the City. It is also necessary to determine the City's needs for technicians and the availability of emergency fuel supply. Unlike other emergency commodities power generators must be tailored to the specific need.

Emergency Power Generators Price TBD

Demolition of Structures, Debris Removal from Private Property (ROE)

As directed by City of Miami Beach, AshBritt shall demolish unsafe structures and remove debris that has been determined by the City to be a threat to the health and safety of the public. Examples of enabling elected body resolutions and other necessary documentation for the right-of-entry (ROE) process are provided by the technical assistance experts working with AshBritt and City of Miami Beach. Debris generated through the ROE program will be placed on the right-of-way and collected as part of the ROW debris program.

Compensation per attached hourly rate schedule

Hourly Equipment Schedule

*With Operators for Emergency Road Clearance, Leaning Trees,
Hanging Limbs, and Debris Removal From Private Property (ROE)*

<u><i>Equipment</i></u>	<u><i>Hourly</i></u>
210 Prentice Loader	\$140.00
Self Loading Prentice truck - 25 to 40 yard dump body	\$130.00
Wheel Loader, John Deere 544 or equivalent – 2 /12 to 3 yard bucket	\$105.00
Tandem Dump Truck – 16 to 20 yards	\$ 75.00
Mini Loader Bobcat or equivalent	\$ 55.00
D6 Dozer or equivalent	\$115.00
Excavator, Cat 325 or equivalent w/ debris loading grapple	\$125.00
Wheel Loader, John Deere 644 or equivalent – 3 to 5 yard bucket	\$115.00
Chainsaw Operator with gear	\$ 35.00
Supervisor with pick-up truck	\$ 45.00
Safety Manager with pick-up truck	\$ 45.00
Mechanic's Truck with tools	\$ 45.00
Flagmen for traffic control	\$ 28.50
Trash Transfer Trailers - 110 yard with Tractor	\$125.00
Bucket Truck - 50 cubic yard bed	\$135.00
Equipment Transports	\$ 90.00
Clerical	\$ 35.00
Laborers	\$ 25.00
Mobilization and Demobilization	A Pass Thru

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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Retroactive approval of the actions of the Administration with respect to finding and declaring the existence of a parking emergency with respect to increased traffic and parking demand caused as a result of Universal Television's "Karen Sisco" production, other events, conventions, visitors, and the first week of public school from August 25, 2003 through August 31, 2003; allowing for the provision of a specified vacant lot, located on 17th Street and West Avenue (Housing Authority Lot), as designated by the Administration; provided that the City shall further require Universal Television to secure the appropriate insurance and security for the purposes set forth in this resolution.

Issue:

Whether to retroactively approve the declaration of a parking emergency from August 25, 2003 through August 31, 2003, as result of Universal Television's "Karen Sisco" production, other events, conventions, visitors, and the first week of public school; allowing for the provision of a specified vacant lot, located on 17th Street and West Avenue (Housing Authority Lot), as designated by the Administration; provided that the City shall further require Universal Television to secure the appropriate insurance and security for the purposes set forth in this resolution.

Item Summary/Recommendation:

During various events and weekends throughout the year, severe parking demand leads to mobility problems and ultimately gridlock on our City's roadway system. This fact has been experienced during the NFL Weekend 1999, Boat Show, Memorial Day Weekend, and New Year's Eve. The creation of additional parking opportunities for visitors to the City during high impact events alleviates the mobility problems and gridlock anticipated during these events and/or weekends.

The Administration recommends the adoption of the resolution.

Advisory Board Recommendation:

N/A

Financial Information:

Amount to be expended:

Source of Funds:		Amount	Account	Approved
<div style="border: 1px solid black; width: 80px; height: 40px; margin: 0 auto;"></div> Finance Dept.	1			
	2			
	3			
	4			
	Total			

Sign-Offs:

Department Director	Assistant City Manager	City Manager
<i>Nanna Shaw</i>	<i>celc</i>	<i>Jung</i>

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AGENDA ITEM C7K
DATE 9-10-03

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: September 10, 2003

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING THE ACTIONS OF THE ADMINISTRATION WITH RESPECT TO FINDING AND DECLARING THE EXISTENCE OF A PARKING EMERGENCY WITH RESPECT TO UNIVERSAL TELEVISION'S "KAREN SISCO" PRODUCTION; AND FURTHER DECLARING THE EXISTENCE OF A PARKING EMERGENCY ON THE FOLLOWING SPECIFIED DATES WITH RESPECT TO THE INCREASED TRAFFIC AND PARKING DEMAND CAUSED AS A RESULT OF THIS PRODUCTION, OTHER EXISTING EVENTS, CONVENTIONS, VISITORS, AND THE FIRST WEEK OF PUBLIC SCHOOL FROM AUGUST 25, 2003 THROUGH AUGUST 31, 2003; ALLOWING FOR THE PROVISION OF THE VACANT LOT LOCATED AT 17 STREET AND WEST AVENUE OWNED BY THE HOUSING AUTHORITY TO BE UTILIZED TO SATISFY SAID INCREASED DEMAND; PROVIDED THAT THE CITY SHALL FURTHER REQUIRE UNIVERSAL TELEVISION TO SECURE THE APPROPRIATE SECURITY AND INSURANCE FOR THE PURPOSES SET FORTH IN THIS RESOLUTION.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

BACKGROUND

The City of Miami Beach has experienced parking shortages during major event periods such as the NFL Weekend 1999, the NMMA Boat Show, Graphics of the Americas, and Auto Show. There are various annual or one-time special events scheduled on Miami Beach and the Administration has determined that there will be a severe parking shortage for a number of these events.

ANALYSIS

To alleviate current parking emergency due to existing conventions, events, travelers during Labor Day weekend, and the first week of public school, the City Administration declared the existence of a parking emergency from August 25, 2003 through August 31, 2003. The vacant lot located at 17 Street and West Avenue, which is owned by the Housing Authority was utilized by Universal Television to satisfy this increased demand. Said lot was utilized for production vehicles and motor home parking. Activity in said lot consisted of base camp and catering for the cast and crew of the production, and shuttling

to the main location(s). Vehicles were present twenty-four hours a day, and were guarded by private security as provided by the production. At all times during such active use, the lot was supervised. Additionally, the production hired off-duty police officers to maintain adequate flow in and out of the lot. The production secured the appropriate security, insurance as required by the Film and Print Office of the City of Miami Beach and was issued a permit to film in the city and use said lot.

CONCLUSION

The Mayor and City Commission should retroactively approve the declaration of a temporary parking emergency during the filming of Universal Television's "Karen Sisco" production from August 25 - 31, 2003.

JMG/CMC/DS/MAS/GW

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING THE ACTIONS OF THE ADMINISTRATION WITH RESPECT TO FINDING AND DECLARING THE EXISTENCE OF A PARKING EMERGENCY WITH RESPECT TO UNIVERSAL TELEVISION'S "KAREN SISCO" PRODUCTION; AND FURTHER DECLARING THE EXISTENCE OF A PARKING EMERGENCY ON THE FOLLOWING SPECIFIED DATES WITH RESPECT TO THE INCREASED TRAFFIC AND PARKING DEMAND CAUSED AS A RESULT OF THIS PRODUCTION, OTHER EXISTING EVENTS, CONVENTIONS, VISITORS, AND THE FIRST WEEK OF PUBLIC SCHOOL FROM AUGUST 25, 2003 THROUGH AUGUST 31, 2003; ALLOWING FOR THE PROVISION OF THE VACANT LOT LOCATED AT 17 STREET AND WEST AVENUE OWNED BY THE HOUSING AUTHORITY TO BE UTILIZED TO SATISFY SAID INCREASED DEMAND; PROVIDED THAT THE CITY SHALL FURTHER REQUIRE UNIVERSAL TELEVISION TO SECURE THE APPROPRIATE SECURITY AND INSURANCE FOR THE PURPOSES SET FORTH IN THIS RESOLUTION.

WHEREAS, the City of Miami Beach has experienced parking shortages during major event periods such as the NFL Weekend 1999, the NMMA Boat Show, Graphics of the Americas, and Auto Show; and

WHEREAS, during various periods throughout the year, severe parking demand has historically lead to mobility problems and ultimately gridlock on our City's roadway system; and

WHEREAS, the Administration has found that allowing for the use of specified vacant surface parking lots for additional parking opportunities during high impact events has alleviated the mobility problems and gridlock anticipated during these periods; and

WHEREAS, the Administration found that such a temporary parking emergency existed from August 25, 2003 through August 31, 2003, due to Universal Television's "Karen Sisco" production and other ancillary events, and would herein recommend that the Mayor and City Commission notify such actions for the term set forth herein; and

WHEREAS, the Administration identified a specified vacant surface lot, located on 17th Street and West Avenue (Housing Authority Lot) that was available for use from August 25, 2003 through August 31, 2003, to alleviate anticipated traffic congestion and severe parking demand; and

WHEREAS, the Administration required Universal Television to secure the appropriate insurance and security for this purpose.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and Commission retroactively approve the actions of the Administration with respect to finding and declaring the existence of a parking emergency with respect to increased traffic and parking demand caused as a result of Universal Television's "Karen Sisco" production and other ancillary events from August 25, 2003 through August 31, 2003; allowing for use in a specified vacant lot, located on 17th Street and West Avenue (Housing Authority Lot), as designated by the Administration; and providing that the City shall further require Universal Television to secure the appropriate insurance and security for the purposes set forth in this resolution.

PASSED AND ADOPTED this _____ day of _____, 2003.

MAYOR

ATTEST:

CITY CLERK

JMG/CMC/SF
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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 8/24/03
City Attorney Date